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ABSTRACT

This report provides guidelines for Client Assistance Programs (CAPs), established to assist applicants and clients of programs and facilities funded under the Rehabilitation Act of 1973. This report developed out of a study to provide information to increase cooperative approaches of benefit to both programs and clients and to create training materials for CAP and rehabilitation program personnel. The first chapter looks at the history of CAPs with emphasis on provisions and implementation of the Rehabilitation Act of 1973. The second chapter presents a description of the CAP program within the rehabilitation system. Considered in the third chapter are CAP program implementation and the service delivery system. Included are definitions of types of CAP services, the CAP process, and systems advocacy services. Program results are reported in the fourth chapter which presents a summary of CAP appropriations and number of clients served, CAP case examples, and information on system changes and legal developments. Current practice issues are identified in Chapter V. These include: monitoring CAPs; evaluation standards; the appeals process; impartial hearing officer; CAPs funding level and resources; and use of systems advocacy. The final chapter gives guidelines for utilization of this document. Three appendices identify issues and study group members. Includes 16 references. (DB)

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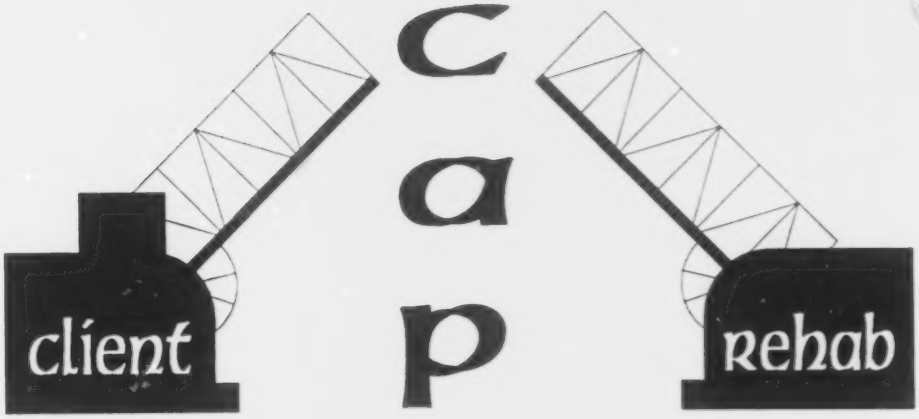

client assistance program

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Client Assistance Program

A Rehabilitation Resource

Fifteenth Institute on Rehabilitation Issues

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Chairperson's Comments

With the completion of this document the true value of the Institute on Rehabilitation Issues (IRI) is once again exhibited. The opportunity for rehabilitation professionals to gather together to address an issue, and to develop a product that will help their colleagues in their work is both a rewarding and challenging assignment. The many hours of intensive debate during the group meetings were followed by days of solitary research and writing. This was done with the full knowledge and understanding that what was written would in all likelihood be altered by the study group at the next meeting. A successful group product often requires compromise, if not in idea and concept, certainly in concentration and style.

The individuals who worked on this IRI document were the very best in the country. The subject, Client Assistance Programs (CAPs), was not a new one, for CAPs have been in existence since their conception in the Rehabilitation Act of 1973. All Prime Study Group members in this effort are directors or workers in successful CAPs, with the exception of two who serve as consultants with university programs, two who are administrators in rehabilitation programs and one who represents CAP's national membership organization. Their expertise is most evident in this comprehensive document which is designed to help state vocational rehabilitation (VR) agencies develop a better understanding of the role and responsibilities of CAPs. It is hoped that the final result will be stronger working relationships between VR agencies and CAPs, and thus better services for rehabilitation clients.

The dedicated people who served as members of the Prime Study Group were: B. Douglas Rice of the Arkansas Research and Training Center in Vocational Rehabilitation - sponsor of the study, Sallie Rhodes, Evelyne Villines, Susan Howard, Robert Akridge, Ethan Ellis, Deborah Wiese and Stephen Pennington. All members of the group wish to recognize the patience and guidance rendered by Tobie, who helped the process during critical moments as issues were resolved.

A special note of thanks is extended to the Arkansas Research and Training Center staff who processed the manuscript.

Joseph M. Pankowski

Introduction to the Study

Client Assistance Programs (CAPs) were established by Congress to deal with concerns expressed by rehabilitation consumers in the early 1970s. Dissatisfaction with the delivery of rehabilitation services indicated problems between consumers and service providers which, according to National Institute on Disability and Rehabilitation Research, stemmed from three principal areas:

1. the lack of adequate communication between counselor and client, and between rehabilitation facility staff and clients who were referred by vocational rehabilitation (VR) counselors;

2. the inability of many clients to understand the requirements and procedures of the program; and

3. the fact that many individuals with severe disabilities did not know of services for which they were eligible or did not receive the services they believed they needed (p. 1).

The Rehabilitation Act of 1973 responded to these consumer citations by taking two major actions: providing for the Individualized Written Rehabilitation Program (IWRP) and creating the CAPs.

The mandated mission of CAPs is to assist applicants and clients of programs, projects and facilities funded under the Rehabilitation Act of 1973, as amended, to receive appropriate and quality services. Although CAPs have existed for a relatively brief period, they have, for the most part, met this objective.

When the Rehabilitation Services Administration (RSA) established guidelines and objectives for recipients of the CAP grants, grantees were provided some latitude in establishing programs in keeping with the intent of the Act. As a result, different administrative and service approaches have emerged. Designated as an advocacy program for clients, it was not intended that adversarial roles develop between VR agencies and CAPs, although this seemingly has occurred in some instances. The intention was that CAPs' major function would be to provide information and assistance to individuals seeking and receiving services under the Act.

Purpose of the Study

The growth and increasing influence of CAPs across the country resulted in

the identification of CAPs as an area of study for the Institute on Rehabilitation Issues (IRI). The National IRI Planning Committee, after reviewing many suggested areas for study, selected this topic as one of the three studies for the 15th IRI because of the many issues and concerns surrounding the relationships between CAPs and VR agencies.

The IRI Prime Study Group, composed of individuals from various rehabilitation disciplines, has examined CAPs from different viewpoints and perspectives. The objective of this study is to provide CAPs and VR agencies with relevant information that can lead to a better understanding of both programs and should result in more productive cooperation in providing services to clients.

Charges

The National IRI Planning Committee developed the following charges for the Prime Study on CAPs:

- To develop a document that will assist state rehabilitation agencies and CAPs to plan and initiate cooperative approaches of mutual benefit to both programs and clients.

- To create a training resource document on CAPs that can be used by staff development personnel, regional continuing education programs, university/college rehabilitation education programs and staff from other agencies and organizations involved in training CAP and rehabilitation personnel.

The IRI Study Group has attempted to meet these charges through the information provided in this manual. The final evaluation of the accomplishments of this study group will be determined by the usefulness of the documents to CAPs, rehabilitation agencies, and related organizations in making rehabilitation services more accessible and more beneficial to eligible clients.

Projections

The future promises many changes for rehabilitation and other human service agencies. Present trends indicate that future clients/applicants will be both younger and older individuals, displaced middle-aged workers and persons with more severe disabilities. Employment opportunities will change rather dramatically, with more jobs becoming available in the technological, service and information areas. The traditional workplace will give way to more workers on flex-time, job sharing and home-based employment. Many employers will provide child care for employees along with better health care

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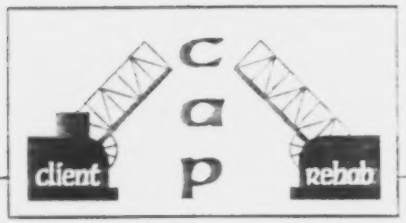
CHAPTER I



Historical Perspective of CAP

The federal/state vocational rehabilitation (VR) program came into being after World War I primarily to assist veterans with disabilities in returning to work. The VR program antedates all other human services programs established with federal dollars and was the first to serve more than one disability group. In the 1930s, Congress mandated VR to serve eligible workers who had disabilities and had applied for Social Security benefits. In a number of states, it also served workers' compensation claimants. During the explosion of federally initiated human services programs in the 1960s, VR took on additional responsibilities, including the provision of services to persons with emotional disabilities and addiction to drugs/alcohol. Thus, by 1973, the number and types of groups served by the VR program had expanded considerably.

Throughout these years, the mission of VR was to assist people with disabilities in preparing for and securing employment. As a result, the program tended to serve persons who did not have severe disabilities because of their greater potential for entering or re-entering the labor force.

The emphasis of VR changed in 1973 when Congress stipulated that priority be given to serving clients with severe disabilities. This change was the result of complex social forces which emerged after World War II, supporting the continued and increased funding of the VR Act and eventually the passage of the Rehabilitation Act of 1973. The forces and the influence they had on the Act and the VR program as it functions today are presented in the following discussion.

The Civil Rights Context

The Civil Rights Movement in the 60's and 70's was the most powerful of these forces. The Movement involved blacks, women, and senior citizens, among others who demanded and, to some extent, won recognition as full participants in American society.

Among those demanding such recognition were people with disabilities. The Disability Rights Movement initially came to public notice through the activities of parent groups. Working first through the courts and then through Congress, these groups established the rights of children with disabilities to an integrated public education and focused national attention on abuse and neglect in institutions serving people with mental retardation. Their efforts led to the passage of the Education of All Handicapped Children Act (Public Law 94-142) and the Developmental Disabilities Facilities Construction and Bill of Rights Act (Public Law 98-527).

People with disabilities were becoming much more organized during this time period. Their efforts were most visible in Massachusetts and California where significant elements of the independent living philosophy were discussed and then tested almost simultaneously. Consumers were active in other states as well.

The testimony of representatives of these newly organized consumer groups shaped the Rehabilitation Act of 1973 very directly and dramatically. Notably, 1973 marks the first time that people with disabilities had any substantial voice in the federal/state VR program established to serve them.

The Consumer Participation Context

Consumerism was on the rise in the '60s and '70s, both in the marketplace and in human services. Ralph Nadar led in the former while consumers of human services had been active since the founding of Alcoholics Anonymous in the 1930s. In the 1970s, consumers were demanding greater participation in the design and delivery of the services they needed and a greater voice in the individual application of those services. These principles were embodied in the reforms which people with disabilities requested of Congress in 1973.

The Rehabilitation Act of 1973

Congress had attempted a major reform of the federal/state VR program in 1972. Those efforts were thwarted by a veto by the President who called the '72 Act a budget buster and returned it unsigned. Congress removed many of the costlier provisions from the '73 version but retained most of those which dealt with rights and consumer participation.

Major Provisions

As passed and signed, the Act contained a number of major provisions which still guide the VR program today. It required that state VR agencies give priority to serving people with severe handicaps and mandated the development of an IWRP for each client.

Title V defined federally mandated rights for people with disabilities for the first time. Section 501 created the Architectural and Transportation Barriers Compliance Board to enforce accessibility on federal property. Section 503 prohibited discrimination in federal employment and Section 504 more broadly prohibited discrimination in all programs receiving federal funds.

Section 112 created CAPs. Its provisions are detailed below.

Provisions for CAPs

Under the Act, CAPs were given two functions: to inform clients and prospective clients of programs, projects and facilities funded under the Act about the services available to them, and to assist them in resolving problems they might encounter in obtaining those services.

CAPs were established as a discretionary program with an initial appropriation of $600,000. The Act authorized a minimum of seven projects and a maximum of twenty. In 1978 that upper limit was removed. Projects were to be initiated by state VR agencies through a competitive grant application process coordinated by the designated federal agency. The original grants were made by the Office of Rehabilitation Services within the Social and Rehabilitation Services Division under the Department of Health, Education and Welfare. The Office of Rehabilitation Services was the precursor of the Rehabilitation Services Administration (RSA), which was established in 1980 within the Department of Education.

The State Response

This new federal initiative was greeted positively by many state VR agencies and the number of CAPs grew steadily, reaching a total of forty-one in 1981. A number of state legislatures supplemented the federal allocations for these projects and a few CAPs were entirely state funded.

The majority of CAPs were operated by the state VR agencies using existing personnel, or by staff hired expressly to provide CAP services. A substantial minority, however, were contracted to other agencies such as Protection and Advocacy (P & A) Systems for people with developmental disabilities, other private agencies or not-for-profit organizations set up specifically to provide CAP services.

CAPs were established in state VR agencies for the blind as well as in general VR agencies. In some states, e.g., Virginia, there were CAPs in each. Many of the CAP directors were people with disabilities as were many of the staff members they employed.

Funding for CAPs was drastically reduced in Fiscal Year (FY) 1982 as part of the new Administration's efforts to contain the federal deficit. Most of the projects survived on carryover funds or state appropriations until Congress restored funding to previous levels the following year.

The 1984 Amendments

An attempt was made to change the fundamental character of CAPs in 1984. Amendments introduced in the Senate during the reauthorization process in 1984 mandated a CAP in each state and territory as a condition of receiving any payments from its VR allotment under the Act, and required that CAPs be independent of agencies providing rehabilitation services. CAPs also had to have the capacity to take legal action on behalf of their clients.

Through these Amendments, an effort was made to restructure CAPs in a manner similar to the P & A model and enhance their advocacy function. Although the effort was successful for the most part, it fell somewhat short because of a division in the disability community

between advocates and service providers, who, respectively, controlled the votes in the Authorizing Committees in the Senate and the House. This division forced a compromise which raised, but failed to resolve, basic questions about the nature of the program.

As a result, the following provisions were incorporated into the 1984 Amendments:

- Each state and territory was required to operate a CAP as a condition for receiving payments from its VR allotment.
- CAPs had to be independent of agencies which provide VR services except in those states where a federally funded CAP had been in operation prior to the 1984 Amendments. (In those states, the Governor was given the option of designating either a service-providing or an independent agency.)
- CAPs were required to have the capacity to take legal action on behalf of their clients; however, they were required to attempt to mediate disputes before taking legal action.
- CAPs were prohibited from bringing class action litigation.
- CAP staff members were enjoined from being employees of or paid consultants to other programs receiving funds under the Act in the state.
- Funding for CAPs (which was no longer discretionary) was increased to $6 million and was distributed through a formula based on population.

Implementation: Nationwide Expansion

The designation process was completed by October 1, 1984. A variety of program configurations resulted because the issue of independence had not been fully resolved by the 1984 amendments. In approximately half the states, Governors designated the P & A System to operate the CAP. In one third, they designated state VR agencies. The remaining designations went to a variety of non-profit agencies, except in Alaska where the Governor designated a for-profit corporation.

Basic variations in the CAPs were made more complex by decisions in individual states. In states where the VR agency had been designated, that agency sometimes contracted with another organizations to perform all or part of the CAPs function. Where the CAP function was divided, the VR agency often contracted with an outside agency to ensure the capacity to provide legal representation to clients, as the law required.

The 1986 Amendments

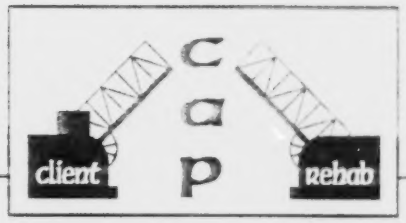
Several changes were made in CAPs when they were reauthorized by the 1986 Amendments. One change required that Governors who wished to change the agency designated as the CAP had to demonstrate "good" cause for the redesignation. A second change dealt with situations in which the designation was being removed from a service-providing agency which had been exempted from the independence requirements by virtue of having federally funded CAPs immediately prior to the passage of the 1984 Amendments. In such cases, Governors were now required to designate CAPs which were independent of agencies providing rehabilitation services funded under the Act. A third change modified the conflict of interest prohibition placed on CAPs. Finally, language was added to Section 112(a) stating that CAP "may provide information on the available services under this Act to any handicapped individuals in the state."

Summary

CAPs were created in 1973 in response to people with disabilities demanding a greater voice in the services they received. Those demands were part of a larger movement for the recognition of the rights of groups previously excluded from active participation in American life.

As such, the discretionary CAPs were the precursors of legal advocacy programs such as the P & A Systems for people with developmental disabilities and mental illness. Because they were the first of such programs to be created, their advocacy function was not fully defined.

CHAPTER II



Program Description

This chapter describes the provisions within the Rehabilitation Act of 1973 which created CAP, the changes which resulted from amendments to Section 112 of the Act, the kind of assistance CAP may provide, the process for designating an agency to administer CAP, and various program requirements.

The Rehabilitation Act of 1973

The Rehabilitation Act of 1973, as amended, establishes CAPs in Section 112. Subsection 112(a) establishes and outlines the assistance CAPs may provide. This section mandates that states be awarded grants to establish CAPs to provide assistance in informing and advising clients and client applicants of rehabilitation services, available benefits and, upon request of such individuals, to assist in their relationships with projects, programs and facilities providing services. This includes assistance in pursuing legal, administrative, or other appropriate remedies to ensure the protection of the rights of such individuals under the Act. Further, language added to the 1986 Amendments to the Act stated that CAPs may provide information on the available services under the Act to any individual with a handicap in the state.

Section 112(b) mandates that each state have a CAP as a condition for receiving payments from its allotment under Section 110 of the Act. Each state, however, must meet the requirements of designation under Subsection (c).

In Subsection 112(c)(1)(A), the Governor has the responsibility of designating a public or private agency to administer the CAP. The Governor must designate an agency that is independent of any agency providing treatment, services, or rehabilitation to individuals under the Act. This requirement, however, does not apply if there was an agency in the state that, prior to the enactment of the Rehabilitation Amendments of 1984, operated a CAP under this section and received federal financial assistance. In these instances, the Governor has the authority to designate an agency that provides treatment, services, or rehabilitation. This exception applies only to the initial designations made in 1984.

Beyond the initial designation, the Governor is limited in redesignating an agency to conduct the CAP. Under Subsection 112(c)(1)(B), the Governor may not redesignate the CAP without "good cause" and can do so only after notice of the intention to make such redesignation has been given and an opportunity for public comment has been provided. In carrying out the provisions concerning the designation of a CAP, Subsection 112(c)(2) requires that the Governor consult with the director of the state VR agency, the head of the Developmental Disabilities P & A agency, and with representatives of professional and consumer organizations serving individuals with handicaps in the state.

Once an agency has been designated to conduct the CAP, it must establish, under Subsection 112(g)(3), procedures assuring, to the maximum extent possible, that mediation is used prior to resorting to administrative or legal remedies. Although Subsection 112(d) prohibits CAPs from bringing any class action lawsuits in carrying out their

responsibilities under this section, Subsection 112(g)(2) states that program personnel must be afforded reasonable access to policy-making and administrative personnel in the state and local rehabilitation programs, projects and facilities.

The CAP is also referred to in Section 102 of the Act. This section requires that the IWRP provide a description of the availability of the CAP. It also provides for the review of client concerns and describes the process a state must follow in reviewing these concerns. A detailed discussion of this appeal process can be found in Chapter V.

Federal Regulations

The federal regulations promulgated to implement the aforementioned sections of the Act are found in 34 CFR 370 et seq. These sections, set forth below, describe the kinds of activities in which CAPs may engage, the various assurances a state must make when requesting a grant to establish a CAP, the manner in which the program director may be afforded access to policy-making and administrative personnel, and a clarification of what mediation entails. Sections which merely reiterate the Act are not included in the following discussion.

Section 370.10 describes the activities in which CAPs may engage. It includes:

1. Helping clients or client applicants to understand rehabilitation services programs under the Act;

2. Advising clients and client applicants of all benefits available to them through rehabilitation programs authorized under the Act and related federal and state assistance programs, and their rights and responsibilities in connection with those benefits;

3. Otherwise, assisting clients and client applicants in their relationships with projects, programs and facilities providing rehabilitation services under the Act;

4. Helping clients or client applicants by pursuing, or assisting them in pursuing, legal, administrative, and other available remedies when necessary to ensure the protection of their rights under the Act;

5. Advising state and other agencies of identified problem areas in the delivery of rehabilitation services to individuals with handicaps, and suggesting methods and means of improving agency performance;

6. Providing information to the public concerning the client assistance program; and

7. Providing information on available services under the Act to any individual with handicaps in the state.

With regard to these activities, Section 370.20 requires, among other things, that the state submit to the federal government an assurance that the designated agency meets the independence requirement set forth in Section 112(c)(1)(A) of the Act, or that the state is exempted from that requirement. It also requires that the state submit an assurance that the CAP agency has the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of individuals with handicaps who are receiving treatments, services, or rehabilitation under the Act within the state. The authority to pursue remedies must include the authority to pursue those remedies against the state VR agency and other appropriate agencies. The designated agency meets this requirement if it has the authority to pursue those remedies either on its own behalf or by obtaining necessary services such as legal representation from outside sources.

This section also requires that each state submit an assurance that it will advise all clients and client applicants of the existence of CAP, the services provided, and how to contact the program. This requirement is also found in Sections 361.40 and 361.42 of the Act.

As previously stated, Section 112(g) of the Act requires that the CAP must be afforded reasonable access to policy-making and administrative personnel in state and local rehabilitation programs, projects and facilities. Section 370.42 describes one way in which this can be accomplished and suggests that the program director be included among the individuals to be consulted on matters of general policy development and implementation as required by 34 CFR 361.18. Moreover, this section requires that CAPs use mediation procedures to the maximum extent possible before resorting to administrative or legal remedies. Section 370.43 defines mediation to include good faith negotiations, but does not require the use of a third party before resorting to administrative or legal remedies.

RSA Policy Clarifications

The following section outlines policy statements issued by RSA regarding the designation of CAPs by state Governors, the nature and scope of CAP services, and the state's responsibility to notify clients and client applicants about the availability of CAP.

Designation: As stated above, a Governor may designate a public or private agency to conduct the CAP, including a private, for-profit organization. A Governor cannot appoint more than one state VR agency to administer the CAP. Once an agency has been designated, it may contract with another organization to provide all or part of the CAP services, but only if the independence requirement set forth above is not violated.

Target Group: Those individuals seeking or receiving services under the Act are deemed eligible for services provided by CAP. Hence, individuals served by the program are not limited to VR clients or persons participating in independent living activities.

Outreach and Recruiting: CAPs outreach, in particular, should be directed to current applicants and clients of programs, projects and facilities funded under the Act. Outreach activities are not intended for generating enrollment of clients into the programs, projects and facilities funded under the Act.

Providing information to the public is an additional function of CAP's outreach policy which serves as a medium through which inquiries about and applications for CAP services may be generated.

Nature and Scope of CAPs: CAP services are authorized only for clients or client applicants of rehabilitation services funded under the Act; specifically, individuals seeking or receiving services under any project, program or facility funded under the Act. Generally, the appropriateness of a CAP service can be judged by its relationship to a service under the Act. Section 112(a) of the statute authorizes assistance by way of informing and advising clients and client applicants of benefits; assistance in relationships with projects, programs and facilities; and assistance with protection of their rights. The pursuit of remedies is associated with rights related to services under the Act, e.g., those services listed in the IWRP. The Act does not provide authority to pursue means for the protection of rights outside funded service programs.

Since CAPs were created primarily to handle individual cases, they have no authority to pursue "general advocacy" on behalf of the overall needs of persons with disabilities, such as class action litigation. Moreover, CAPs may only pursue activities aimed at clients and applicants with respect to services provided under the Act. CAPs are authorized to advise state and other agencies of identified problem areas in the delivery of rehabilitation services and suggest methods of improving the performance of agencies [Section 370.10(e)]. Furthermore, Section 112(g)(2) of the statute and Section 370.42 of the regulations require that directors be afforded reasonable access to policy-making and administrative personnel in state and local rehabilitation programs. The purpose of these requirements is to resolve individual cases, as well as to identify problems in the delivery systems and to suggest ways to make improvements.

CAPs are also authorized to provide information to the public concerning the availability of their services. More generalized public information activities and expenditures regarding matters other than mandated CAP services go beyond the words of the statute.

CAPs may advise clients or applicants of available benefits through federal and state assistance programs and of their rights in relation to these programs; however, they are not authorized to assist in relationships with or pursue resolutions with regard to these programs and other issues which are not related to rehabilitation programs funded under the Act. Nevertheless, CAPs are not precluded from "helping" with outside programs when such help is limited to assistance in completing forms, organizing information and facts, making referrals to legal aid or enforcement agencies, etc. Any efforts regarding other programs should be limited and based upon individual circumstances (PRM 4003, 85-21; PRM 4003, 85-21A; Clarification of PRM 4003, 85-21 and 21A dated April 7, 1986).

CAPs Authority to Pursue or Pay Costs of Pursuit of Legal Remedies: CAPs are authorized to assist clients in pursuing legal remedies, when necessary, to ensure the protection of their rights according to the Act. However, this authority provides for the pursuit of remedies "only against those operating projects, programs and facilities that provide services under the Act to clients and client applicants and only in connection with the provision of those services." While a CAP may assist a client or client applicant in pursuing a discrimination claim under Section 504 of the Act when the claim is against the designated state unit that is providing VR services under Title I of the Act and the claim involves the provision of those services, CAPs are not authorized to otherwise pursue Section 504 claims on behalf of clients or client applicants.

The phrase "other appropriate state agencies," found in 34 CFR 370.20(b)(2), refers to those agencies which provide treatment, services, or rehabilitation to clients. The regulations make it clear that when a state agency other than VR was involved, individuals receiving services from that agency were eligible for CAP assistance. This provision does not authorize CAPs to assist clients in pursuing rights under the Randolph Shepherd Act unless the services are specified in the IWRP and the individual is a client or client applicant of the state VR agency.

Under Title V, the role of the CAP is limited to indirect activities such as providing advice, referral to legal aid, and/or assisting clients and client applicants with compiling facts for written complaints. Although CAPs are not permitted to pursue remedies for ongoing discriminatory actions or violations of Title V, they can, however, present the facts of the issue in question to the appropriate state or federal enforcement agency (RSA memorandum dated December 5, 1986 and PRM 4003, 85-14).

CAPs Services to Individuals with Disabilities in Rehabilitation Facilities: To be eligible for CAP services, an individual in a rehabilitation facility must be an applicant or recipient of services under Section 110, Part VI-C, or Part VII-A funds or through an RSA grant or the National Institute on Disability and Rehabilitation Research (NIDRR). All programs must include client services as an approved activity. However, information on available services may be given to any individual with a handicap within the state (PRM 4003, 88-01).

CAPs Discretion to Determine Services to be Provided: Once determined that a client's dispute lacks merit, a CAP agency is not obligated to assist that client in preparing for an impartial hearing or any other remedy. CAPs have the discretion to determine whether or not provision of such services is warranted, and are expected to assist clients and client applicants in resolving differences and finding alternative solutions whenever possible (PRM 4003, 86-18).

Informing Clients and Applicants of CAPs: Under the amended Section 112 of the Act, it was presumed that state VR agencies would provide information about CAP to all clients and client applicants rather than limiting the provision of such information to clients under

an IWRP as required by Section 102(b) of the Act. Such general provision of information is now a regulatory requirement based on Section 370.20(c)(1) of the federal regulations which reads, "The State will advise all clients and client applicants of the existence of the client assistance program, the services provided by the program, and how to contact the program." RSA further clarified that this responsibility applies to all programs, projects and facilities which provide services under the Act (PPD, 85-5; PRM 4003, 86-14).

The Role of CAPs in the Rehabilitation System

The role CAP plays in the rehabilitation system has significantly changed since its inception in 1973. Originally established as a discretionary program, it was intended to improve communication between clients and VR counselors as well as between other rehabilitation staff and the clients referred to them by counselors. It was also meant to help clients understand the rehabilitation process and the benefits available under the Act.

As a result of the 1984 Amendments, the CAP was expanded and became an integral part of the rehabilitation system. CAPs serve as vital links between the state agencies and consumers. This is due to several reasons:

- Each state must conduct a CAP.
- CAPs have the authority to pursue administrative, legal and other appropriate remedies.
- CAPs serve in advisory capacities to state VR agencies.
- CAPs must be afforded reasonable access to state and local policy-making and administrative personnel.

CAP serves as a link between the state VR agency and the disability community, enabling persons with disabilities to access the rehabilitation system. It also advises the state VR agency of identified problem areas in the delivery of rehabilitation services, providing important input into policy development and implementation.

Lastly, CAP has evolved into an advocacy program for persons with handicaps who are seeking or receiving rehabilitation services under the Act. Since 1984, CAPs have been required to use mediation as a primary method of resolving the concerns of clients or client applicants. They do not, however, function in the role of a traditional mediator, i.e., always acting as a neutral third party between the client and state VR agency. This fact is recognized in the federal regulations where mediation is defined as including good faith negotiations, and the use of a third party is not required before resorting to administrative or legal remedies (34 CFR 370.43). These regulations recognize that CAPs act as advocates for individuals; otherwise there would be no requirement that CAPs negotiate

with the state VR agency in good faith. The difference between other forms of advocacy and CAPs is the need to seek a solution within the parameters of the Act. Further, when the 1984 Amendments provided CAP with the capacity to pursue administrative, legal and other available remedies, the role of CAP was clearly broadened to include individual advocacy.

Comparison of CAP to the Protection and Advocacy System

As set forth above, CAP services are authorized only for individuals seeking or receiving services under the Act. Moreover, these services must be related to a problem the individual is having with a program, project or facility funded under the Act. A discrimination claim under Section 504 of the Act, for example, can be pursued against a project, program or facility providing services to a VR client, but not against an outside entity not funded under the Act. Moreover, CAPs were created to focus primarily on individual cases and were not given the authority to pursue class action litigation. Hence, CAPs were not intended to be general advocacy programs concerned with the overall needs of persons with disabilities.

This is in contrast to the P & A System established in the Developmentally Disabled Assistance and Bill of Rights Act of 1975, as amended (Public Law 98-527, hereafter referred to as the DD Act). The DD Act mandated that each state have a P & A Program with authority to provide general advocacy services to individuals who had mental or physical impairments manifested before age 22 and which resulted in functional limitations. The DD Act does not prohibit class action litigation. A similar program was enacted to protect the rights of selected persons with mental illness in the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (hereafter referred to as the PAMII Act). The PAMII Act covers individuals with mental illness with respect to matters which occur while residing in or within 90 days of discharge from a residential facility providing care or treatment.

CAPs and the P & A Systems are similar since they may serve only those individuals identified in their respective legislation. They are different, however, in the matters they may pursue on behalf of persons with disabilities. CAPs are limited to issues or concerns related to services provided under the Act and cannot pursue general advocacy in the form of class action litigation. The P&A Systems, in contrast, may pursue any disability-related concern covered individuals have as well as class action litigation to effect systems change.

CAP Relationships

The role and function of CAP requires the establishment of working relationships with a wide array of individuals representing diverse viewpoints, perspectives and past experiences. For example, the CAP counselor is required to work closely with individuals and groups representing persons with disabilities, family members, and rehabilitation counsel-

ors, supervisors, managers and upper-level management staff. Since CAP staff have daily contact with applicants and clients of programs, projects and facilities, and with VR counselors, the relationship of CAP advocates, CAP clients, and the VR counselor is critical to the success of all CAPs. There are certain factors, however, that can facilitate a positive relationship among all parties concerned. To facilitate a positive relationship among the CAP, VR and client, CAP Advocates and Specialists should make it very clear to everyone involved that:

- CAP's role is to provide accurate information about benefits available under the Act and to assist clients in obtaining their rights as well as understanding their responsibilities in relation to receipt of these benefits.

- CAP supports the concept of VR and the Act, and exists to balance the legitimate interests of the client or applicant and the VR counselor.

- CAP encourages the client or applicant to maintain and improve communication with the VR counselor.

- CAP's involvement with the client is short-term and CAP is not designed to usurp the VR counselor's role.

Clients of CAPs and VR counselors need to understand that CAP staff are dedicated to:

- the dignity and worth of all individuals;

- the principles and intent of the Rehabilitation Act, as amended;

- facilitating the rehabilitation process;

- establishing a meaningful working relationship with the client or applicant and the VR system to facilitate a positive resolution of client, applicant or VR concerns; and

- providing assistance which enables the client or applicant to access the rehabilitation system to acquire the services needed to maximize employment, independence, and integration into the workplace and community.

The CAP/client relationship is of critical importance in addressing the issues raised by applicants and clients of programs, projects and facilities funded under the Act. This relationship is best served when the client or applicant understands that program staff are dedicated to:

- listening to the client's concerns about the rehabilitation process and providing the opportunity to explore these concerns in terms of ultimate

- recognizing the client's right to make informed decisions;

- making the client an active participant in the decision-making process; and

- encouraging the participation of the client or client applicant in the rehabilitation process. (This is accomplished by involving the client in every aspect of the CAPs process described in Chapter III.)

While the CAP/client relationship is based upon the recognition of the individual's rights and responsibilities, the CAP/VR counselor relationship is based on the fact that CAPs are professional and ethical programs which function as an integral part of the rehabilitation process. In order to minimize conflicts that could potentially evolve within this relationship, VR counselors must understand that:

- CAP staff realize that VR counselors are operating within certain restraints and that most want to do a good job by providing the needed services to individuals with disabilities.

- CAP staff can assist VR by explaining the VR process accurately and in lay terms, by confirming information already provided by the VR counselor, and by clarifying the Act and specific VR agency policies.

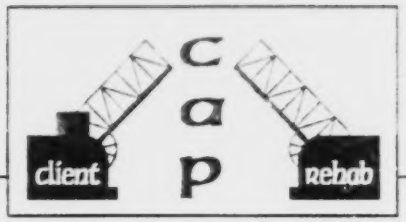
- CAP staff will cooperate with VR counselors to identify issues which may improve the overall rehabilitation process.

- CAP staff will make extensive efforts to obtain the viewpoints of the VR counselor before taking any action on the issue(s) in question.

- CAP staff view VR counselors as vital links in the process for resolving client concerns and will inform the VR counselor about the course of action planned to resolve the client's concerns whenever appropriate.

- CAP staff view VR counselors as the first step for resolving any client or client applicant concerns.

CHAPTER III



Program Implementation and Service Delivery System

National Summary of CAPs

In follow-up to the discussion of a Governor's option for the designation of CAPs, in Chapter One, a summary of the individual designations and the alternatives used in implementation of CAPs nationwide is presented. The educational and employment backgrounds of the professionals making up the national network of CAPs are also discussed briefly. The section concludes with detailed information on the service delivery system and includes outreach, case services, and system advocacy.

In 1984, as the Governors made their designations, a variety of agencies were selected to administer the CAP, including P&A Systems, Governors' commissions, offices of handicapped affairs as well as other advocacy organizations. In some states, where discretionary CAPs had already operated within the state VR agencies or other service providing agencies, the CAP could be designated to the VR agency under the provisions of the grandfather clause [Section 112(c)(1)(A)]. However, a few Governors in these "grandfathered" states opted to designate the CAP to an agency other than VR. On October 1, 1987, after the initial designation process, one additional CAP (Colorado) was redesignated from the VR agency to the P&A System. (See Chapter One, Implementation: Nationwide Expansion, for a more detailed discussion of the designation process and resulting program configurations.)

A summary of the designated and implementing agencies of CAPs nationwide, as of October 1, 1988, follows.

25 CAPs are both designated to and implemented by the state Protection & Advocacy System.

8 CAPs are both internally designated to and implemented by the state VR agency.

7 CAPs are designated to either the Governor's or a state commission, cabinet or department.

5 CAPs are internally designated to the state VR agency with all CAP services subcontracted to an outside agency other than the P&A System.

4 CAPs are internally designated to the state VR agency with all CAP services subcontracted to the P&A System.

1 CAP is internally designated to the state VR agency with all CAP services subcontracted to independent living centers.

1 CAP is internally designated to the state VR agency with half of the CAP services subcontracted to the P&A System.

- 1 CAP is internally designated to the state VR agency with CAP legal services subcontracted to an independent attorney.

- 1 CAP is designated to a state department (other than VR) with all services contracted to a non-profit coalition.

- 1 CAP is designated to a state department (other than VR) with CAP legal services subcontracted to the P&A System.

- 1 CAP is designated to the state commission which houses the P&A, and most of the CAP services are subcontracted to independent living centers.

- 1 CAP is designated to a Department of Education and contracted to a sole proprietorship.

As this summary shows, the actual implementation of the CAP nationwide can vary greatly depending on the designation of the CAP, the agency that actually implements the program, and the use of contracts and subcontracts.

The CAP Service Delivery System

Introduction

There are several key components to the CAP service delivery system. This section deals with two major components: outreach and CAP case services. The section discusses the purpose and scope of outreach activities and the most common methods used by CAPs to outreach to potential clients. The section on case services explores some discrepancies in the definitions used by CAPs nationwide and the need for common interpretation of these definitions. A description of a national effort to develop standardized definitions follows, along with a chart showing the continuum of CAP services and a brief reference to the scope of services provided by CAPs.

Outreach: Purpose and Scope

The need for CAPs to outreach to their target population is inherent in the Act and is essential to the effectiveness of any CAP. The purpose for legislating CAPs would be lost if the population for whom the programs exist were unaware of the services CAPs provide. Section 370.20(c)(1) of the federal regulations requires that "each state include in its request for assistance an assurance that it will advise all client applicants and clients in the state of its Client Assistance Program, the services provided by the program, and how to contact the program." This means that each state can define the method(s) to be used as it sees fit.

The VR agency in most states has assumed the primary responsibility for informing applicants and clients about the availability of CAPs at key points in the rehabilitation process. This situation stems from some of the regulatory requirements related to the provisions of basic VR services. State VR agencies are required to inform individuals receiving services under an IWRP of the availability of CAPs. The IWRP requirement for notification of CAP availability also applies to individuals receiving services from the state VR agency in the supported employment (Title VI, Part C) and independent living rehabilitation (Title VII, Part A) programs. This provision also applies to the American Indian Vocational Rehabilitation Services Grants funded under Section 130 of the Act. In addition, the regulations mandate that the State Plan must assure that the designated State Unit will notify individuals in writing of the actions taken and will inform them of their rights and the means by which they may express and seek remedies for any dissatisfactions, including the procedures for administrative reviews and impartial hearings. When appropriate, these individuals are to be provided with a detailed explanation of the availability of the resources within the CAP.

In those instances where the responsibility for informing applicants/clients about the availability of CAP is based solely on these regulatory assurances, many individuals who may be seeking or receiving services from other programs, projects and facilities funded under the Act, e.g., rehabilitation facilities (see Attachment 3 for a list of the programs under the Act), may never be informed about the availability of CAPs. Since the regulations do not address the responsibility of informing a large population of potential CAP clients about the availability of CAPs, CAPs must plan and implement their own outreach efforts in order to reach all members of their potential target population. Neither the legislation nor its corresponding regulations clearly delineates or restricts the nature and scope of CAP outreach activities. This lack of specificity has provided CAPs latitude in developing their own outreach mechanisms. Despite limited resources, many CAPs have devised and employed creative strategies for outreach to the diverse population they are charged to serve.

The following section outlines a variety of methods used by CAPs to outreach to their target populations and to inform them about the availability of CAP services.

Outreach Methods

The outreach strategies described here represent statewide approaches which vary from CAP to CAP depending upon such factors as the state's size, population density, and specific demographic makeup, among other things. Some forms of outreach are generic to all CAPs while others are not. Since all CAPs have to operate with limited resources, outreach strategies are often sought that involve little or no expenditure of funds. Little or no cost efforts of outreach may include public service announcements, interviews on local community talk shows, and articles in local newspapers and consumer publications. A great deal of outreach is also achieved by word of mouth. Success in this is dependent upon

the CAP's salience in the community and its efforts to network with consumer groups, service providing agencies, and other disability-related organizations. Moreover, CAPs, by the very nature of their funding levels, are forced to be creative and frugal in assessing outreach needs and in selecting and implementing outreach strategies. The following examples of outreach strategies that CAPs commonly employ should not be viewed as exhaustive or complete.

VR Agency Notice: As mentioned earlier, the VR agency in most states assumes the primary responsibility for informing applicants/clients about the availability of CAP services at key points in the rehabilitation process. In some states, VR undertakes only those activities that are necessary to establish minimum compliance with the federal requirements. In other states, VR assists CAPs in outreaching to potential clients in a variety of ways, often going beyond substantial compliance with the federal regulations. In a couple of states, VR informs applicants/clients about the availability of a CAP at every point in the rehabilitation process, including information about the availability of CAP services with every standard client communication.

During the first year of the mandatory formula grant program, some CAPs used the VR printout of all 08, 28 and 30 closures as a mailing list for outreaching to potential CAP clients. This practice was later discontinued in several states for fear that it was a violation of client confidentiality. Professional Management Associates (PMA, 1986)

Brochures: Probably the most generic method of outreach used by almost all CAPs is the distribution of brochures describing the availability of CAP services. Most brochures are designed to describe the services CAPs can provide and the people who are eligible for those services. The number, style, and format of such brochures varies from state to state depending upon a variety of factors, such as the cultural or ethnic groups that need to be targeted. Alt ough a 1986 study by Professional Management Associates (PMA) recommended that all CAPs be required to have braille materials, audio tapes, and telecommunication devices for the deaf (TDD), the regulations governing CAPs do not deal with this issue. However, the general accessibility requirements found within Title V, Section 504, and the regulations governing this section of the Act would apply to CAPs as recipients of federal financial assistance. Many CAPs do provide brochures and other printed information in braille, large print, or taped format to meet the needs of people with visual impairments. A few CAPs provide brochures printed in Spanish, Vietnamese, Cambodian, Laotian, etc. to meet the needs of specific ethnic populations located in the state. Other CAPs have developed brochures in simple straightforward language which can be easily understood by individuals with cognitive and perceptual limitations. Many CAP brochures have an attached postage paid postcard that can be returned to the CAP indicating the individual's desire to be contacted by a CAP representative. These postcards have proven effective in outreaching to individuals who do not have telephones or who are hearing impaired and without telecommunication devices.

Other Printed Materials: Most CAPs use a broader range of promotional techniques to inform potential clients about the availability of CAPs. In addition to the distribution of

brochures, CAPs may distribute flyers, fact sheets, posters, letters, and other printed materials to applicants/clients of VR agencies and other programs funded under the Act. The distribution of these materials may occur on an ongoing basis and may be accomplished by utilizing a variety of approaches. For example, CAP brochures, flyers and posters are commonly displayed in local VR offices as well as other state and local agencies, including centers for independent living and rehabilitation facilities. In some states, the posters that are displayed in local VR offices have tear sheets or detachable postcards that can be easily removed by clients and be available if needed at a later date. The use of such posters has proven to be an effective means of outreach to potential CAP clients.

Videos: Some state VR agencies require each applicant to participate in an orientation session prior to formal application or to proceeding to an intake interview with a VR counselor. In a few of these states, the CAP or the VR agency has developed a video package or slide presentation to be shown during these orientation sessions. In most instances, clients proceeding with formal applications for services are also given CAP brochures at intake. At the request of one CAP, the VR agency agreed to routinely send CAP brochures to clients ninety days after all initial intake interviews. This procedure serves as a reminder of the availability of the CAP just in case the client has forgotten about the information s/he received about CAPs during the intake interview.

Toll-Free Telephone Numbers: Since easy access is a critical feature of an effective program, most CAPs maintain toll-free telephone numbers that enable prospective clients to contact the program from anywhere in the state at no charge to the client. These toll-free telephone numbers are then included in CAP brochures, and individuals are encouraged to contact a CAP when they have questions or concerns.

Media Coverage: Media coverage is an effective means of informing the public at large of CAP's availability. Many CAPs arrange for public service announcements (PSAs) to be aired on both radio and television. Some CAPs use PSAs to target specific populations. For example, one CAP has PSAs broadcast on a local radio station specifically geared toward Black listeners. In a few states, CAP staff have appeared on local community talk shows. State and local newspapers have also published stories regarding CAPs and some CAPs routinely submit articles that are published in consumer and agency newsletters.

Networking: Networking with consumer groups, state and local service providers, and other disability-related organizations is key to every CAP's outreach efforts. Informing appropriate consumer groups and agencies about the availability of CAPs and offering to make presentations describing CAP services to such groups is an effective means of reaching specific segments of CAP's target population. Developing and maintaining effective liaison relationships with consumer groups and community service agencies is particularly important in states which are predominantly rural and where financial and staff resource limitations prevent routine and direct contact with the target population. In rural

states, travel is costly and often infrequent, therefore, it is crucial that CAPs develop close linkage with key individuals in local agencies who can function as sources of referrals and can provide assistance when problems arise. Regular contacts with local agencies and organizations also provide CAP workers with insight into and an awareness of community activities and developments.

Establishing Advisory Committees and Participating in Interagency Activities: Participating in committees, task forces, coalitions, etc. that address disability-related issues is also an effective method of alerting others about the availability of CAPs and of addressing CAP-related issues. Many CAPs have advisory committees or councils that provide advice on and guidance for CAP's operations. If a designated CAP agency establishes an advisory committee, its membership must include persons with handicaps or their representatives and other individuals to be assisted within the program, providers of services, and other appropriate individuals [34 CFR 370.3(b) and 369.46]. There are no prohibitions against other grantees under the Act from serving on CAP advisory committees. CAPs may reimburse such individuals for travel and related expenses associated with serving on such committees. Consequently, such committees are usually comprised of a mixture of individuals, many who have disabilities and are representing themselves and other consumer organizations, some representing service organizations, and others representing various disability commissions and/or councils. Such individuals can be integral to CAP outreach activities by informing their constituencies about the availability of CAP services and working to promote self-advocacy skills in the people they serve.

Outreach Projects: Some CAPs extend their outreach efforts to involve the implementation of entire outreach projects, e.g., sponsoring and/or coordinating conferences, seminars and/or workshops. A few CAPs have sponsored leadership training workshops geared to adults with disabilities and designed to develop and engender self-reliance. Some CAPs use workshops to train people about their rights and responsibilities under the Act and how to employ various methods of redress when they experience problems in securing the rehabilitation services they are seeking. Through such projects, individuals with disabilities are taught to negotiate and advocate on their own behalf, and to problem-solve and identify options when conflicts occur. Although such training is generally aimed at self-development, participants are encouraged to utilize newly acquired skills in empowering others. Even though such workshops are usually conducted only periodically, the effects of these efforts are far-reaching because the use of such trainers can be used to extend CAP's capacity to serve more clients. Many participants leave these workshops prepared to address issues that may confront them in the future. Armed with skills and knowledge, they may also be willing to assume some responsibility for outreaching to other potential CAP clients and for advocating on someone else's behalf. Consequently, some people consider such workshops to be one of the most desirous and significant outreach efforts employed by CAPs.

Definitions of Types of CAP Services

Through outreach efforts, CAPs market the availability of their services. As mandated by the Act, these services range from the provision of basic information to all individuals with disabilities statewide to the complexities of cases involving legal redress. Although most CAPs spend a majority of their staff time in addressing individual concerns, the achievements of these efforts are complemented and enhanced by the aggressive pursuit of systems advocacy. In the following pages, the key elements and a conceptual framework for the provision of individual case and systemic advocacy services will be defined and developed.

The following discussion also looks at the discrepancies that have historically existed among CAPs in the way they define "case" and "inquiry" and the core services that CAPs provide. After exploring some of the reasons for these discrepancies and identifying the need for standardized definitions for these terms, the efforts of the National Association of Protection and Advocacy Systems (NAPAS) to work with CAPs nationwide to create standardized definitions will be explained and the resultant definitions will be provided.

The Need for Common Interpretations of Definitions

A close review of the state by state CAP statistics for FY 1986 through FY 1989 reveals possible discrepancies in the way individual CAPs define what constitutes a "case" and what constitutes a "routine informational inquiry". It is also evident that CAPs use a variety of definitions for the case services they provide, i.e., informational/referral, advisory/interpretational, mediation, administrative, legal and transportation. The use of various definitions for case services was further complicated when RSA changed the definitions and the categories for the types of CAP services listed on the Annual CAP Report (RSA 227) between FY 1986 and FY 1987. Since this version of the Annual CAP Report was scheduled to expire on March 31, 1990, the report was sent to all CAPs for review and comment, and an RSA Work Group on CAPs was formed to compile those comments and revise the form during the Fall and Winter of FY 1989. During the Fall of FY 1990, staff at RSA Central Office were also asked to review the form and revise it for submission to the Office of Management and Budget (OMB) for approval. Consequently, additional changes and revisions to the definitions and categories for the types of CAP services will be implemented in FY 1991.

As discussed earlier, differences in individual CAPs are prevalent throughout the country even though all CAPs operate under the same federal mandate. As a result of changes in definitions and discrepancies in the interpretations of definitions, CAPs have been discussing the need for standardized definitions for several years. Most CAPs agree that the establishment of standardized definitions for "case" and "inquiry" and for the types of CAP case services would facilitate communications between and among CAPs.

Discrepancies in the Definitions of Case and Inquiry

Although almost all CAPs agree that one-time telephone calls or inquiries that can be immediately resolved through the provision of specific information and/or referral to another source constitute the provision of "routine" information and referral services, not all CAPs agree on when an inquiry should result in the opening of a CAP case.

All CAPs generally agree that "routine" information and referral services do not require the maintenance of client confidential information. Likewise, almost all CAPs agree that an inquiry related to a problem or concern which cannot be immediately resolved should result in the opening of a CAP case. When NAPAS examined the definitions for "case" used by several CAPs prior to FY 1989, the fact that some CAPs use additional criteria in determining whether or not to open a case record became evident. Examples of such additional criteria are: (a) whether there is a reasonable expectation that through CAP's intervention some degree of satisfaction will result for the client, and (b) whether the client agrees that a case should be opened. One CAP, which had developed a self-advocacy brochure designed for clients, used the additional criteria of whether or not the client could self-advocate in deciding when to open a case. If it was determined that the client could self-advocate, a brochure was often sent in lieu of opening a case.

Discrepancies in the definitions for "case" and "routine informa-tional inquiry" are further complicated by the Annual CAP Report, which lists information and referral as a service available to individuals who have open CAP cases. Although the definition used for "information and referral" as a "case service" is somewhat different from the definition used for "routine informational inquiry", many CAPs still have a difficult time determining what constitutes "information and referral" services for an open "case" and what constitutes a "routine informational inquiry."

The Development of Standardized Definitions

During the Fall of 1988, NAPAS began working with CAPs to develop standardized definitions for "case" and "routine informational inquiry" and for the types of services CAPs provide. Using input from approximately eight (8) CAPs, from the Annual CAP Report (RSA 227), and from the CAP evaluation conducted by PMA in 1985, the CAP Project Director at NAPAS worked with a task force of CAP Directors to develop drafts of proposed definitions which were sent to all CAPs for review and comment. By sending three different drafts out nationwide, NAPAS was able to obtain input from over forty (40) CAPs. The final draft, which is presented in the following discussion, reflects definitions which CAPs nationwide, with few if any exceptions, seem to be comfortable using.

Distinguishing Between Case and Inquiry

When a request for information can be handled with one or two telephone calls and the provision of "routine" information about (a) the services available under the Act and/or the rights and responsibilities of individuals seeking or receiving services under the Act, and/or (b) the routine activities of programs, projects and facilities funded under the Act; and when the nature of the inquiry is such that the maintenance of client confidential information and the provision of follow-up contacts are not necessary, the inquiry should not result in the opening of a case file. Most CAPs refer to the provision of such "routine" information as either "routine informational inquiries" or "short term assistance." Such calls should be recorded on the Annual CAP Report (RSA 227) as "routine informational inquiries".

When an applicant/client of a program funded under the Act calls a CAP with an inquiry of such a nature that CAP staff must actually "get involved" in the problem or concern beyond the provision of "routine" information (e.g., necessitating analysis of the problem, research and problem solving, etc.), client confidential information should be recorded and a case file should be opened.

The premise here is that information and referral services should be available to anyone contacting a CAP. The determination of whether or not to open a case file should be based on whether the individual's request can be addressed through the provision of "routine" information, or whether the individual is an applicant or client of program, project or facility funded under the Act, whether the concern or issue is related to such a program, project or facility, and whether CAP staff must actually "get involved" in the individual's problem or concern beyond the provision of "routine" information.

Whenever a case record is opened and the CAP advocate must contact the VR counselor for additional information about the client, permission for the release of information should always be obtained. Most CAPs send a release of information form to the client and ask that it be signed and returned before seeking any additional information from the counselor. When a CAP advocate fails to obtain this release or when a VR counselor provides the CAP advocate with additional information from the client's VR case record without securing the proper release of information forms, that individual could be violating the rules of confidentiality.

Definitions and Scope of CAP Services

The primary services that CAPs provide can be conceptualized as a continuum made up of three broad categories:

1) information and referral services;
2) individual case (or advocacy) services; and
3) systems advocacy services.

The definitions presented here are the results of NAPAS' efforts to get CAPs to agree on some standardized definitions for the types of services CAPs provide. These definitions were submitted to RSA when they were revising the Annual CAP Report (RSA 227) and were incorporated, with only slight changes, into the draft report that was submitted to the Office of Management and Budget (OMB) for approval during FY 1990. OMB cleared that report in October 1990.

Information and referral services may be defined as any call, letter or walk-in which requires an explanation of facts about the services and benefits available under the Act, and/or the rights and responsibilities of applicants and clients in connection with such services and benefits. Such informational contacts generally result in the provision of "routine" information to the inquirer, the dissemination of materials on benefits available through programs authorized under the Act or other related information, or a referral to another source.

Individual case (or advocacy) service encompasses a variety of strategies or techniques that CAP staff use to assist an applicant or client of a program, project or facility funded under the Act in resolving his/her problem or concern, including: informational/ referral, advisory/interpretational (referred to as consultation/ advice on the FY 1986 Annual CAP Report), mediation/negotiation, administrative (informal reviews), formal appeals procedures (impartial hearings), and legal services (judicial/court actions). Definitions and explanations for these services are listed below.

- *Advisory/Interpretational*

  Involves reviewing the problem or concern expressed, consulting with the applicant/client on various courses of action, researching possible solutions, developing strategies, and providing advice to the applicant/ client. Includes coaching individuals in self-advocacy.

- *Mediation/Negotiation*

  In reference to CAP services, involves activities aimed at effecting a settlement or compromise between an applicant/client and a representative of a program, project or facility funded under the Act in an effort to reconcile differences.

  Since CAPs generally do not agree as to whether their staff can and do remain neutral in resolving conflicts between their clients and representatives of covered agencies, the definition presented here is intended to be generic and is not intended to reflect either the neutral or non-neutral position of a CAP representative.

- *Administrative (informal reviews)*

  Involves activities and support services associated with the review of a determination made by staff of a program, project or facility funded under the Act. Includes assisting the applicant/client in writing the request for an administrative review as well as providing representation during the review.

- *Formal Appeals Procedures/Impartial (Fair) Hearings*

  Involves activities and support services associated with a hearing by an impartial hearing officer (IHO) in response to a request by an applicant/ client and in compliance with the Act and the applicable regulations.

- *Legal Services (Judicial/Court actions)*

  Involves activities and support services where legal recourse is used to resolve the problem or concern of an applicant/client. Includes providing legal advice, consultation, preparation of legal documents, and representation in court cases.

The Annual CAP Report (RSA-227) in effect until March 31, 1990, lists transportation as a category of services. Although this seems appropriate since the cost of client, client applicant, or attendant travel in connection with the provision of assistance is an allowable cost under the CAP regulations, only 16 CAPs reported providing transportation services to a total of 110 people during FY 1988 and 13 CAPs reported providing transportation services to a total of 137 people during FY 1989. Furthermore, a few CAPs do not believe that they should have to provide transportation services for clients. These CAPs feel that VR or the covered agency involved in the appeal should provide any transportation services needed for a client to participate in the appeals process. In the event that no other means of transportation is available, CAP staff would transport the client, usually with the expectation that VR or the source agency would reimburse the CAP for any expenses incurred. Under most other circumstances, these CAPs felt they should be traveling to the client.

The chart on the following page represents the continuum of services CAPs provide.

Continuum on Type of CAP Services

In addition to limitations on the target population eligible for CAP case services, the Act contains provisions that limit the scope of CAP services. CAPs do not have the authority to pursue remedies for the protection of rights in relationship to issues which do not involve services funded under the Act. Although this limitation is clear in most areas, many CAPs take issue when the provision is interpreted to mean that CAPs do not have authority to pursue 504 cases against other entities not funded under the Act.

The CAP Process

All CAPs have had to develop intake and casework procedures in order to meet the needs of their client population and their operating agency. While the basic process described here is representative of many CAPs nationwide and may be considered common practice, many variations in this process will be found depending on the individualized nature of the operating agency. Some of the procedural steps presented here are based on legislative and regulatory requirements while others represent good practice procedures.

The CAP process is initiated when an applicant or client of a program, project or facility funded under the Act contacts the CAP office. At this time, a CAP Specialist must obtain some basic information in order to determine if the individual is simply seeking "routine" information or if the individual is seeking and eligible for CAP assistance. When the client's concern can be resolved with the simple provision of information (answering questions, explaining rehabilitation eligibility, sending a brochure, making a referral to another agency, etc.) the request is granted at that time and the call or visit is classified as a "routine informational inquiry".

When it is apparent that CAP involvement will go beyond the provision of routine information (e.g., rehabilitation policy research, problem analysis, information gathering, etc.), the CAP Specialist will collect some basic information about the client, including his/her name, address, telephone number, Social Security Number, and disability; record it on an intake form; and open a CAP case record. An initial interview is generally conducted by telephone or, when appropriate, an office visit is scheduled for an intake interview. For walk-in clients, an intake interview is usually conducted immediately. The purpose of the initial or intake interview is to discuss the client's problem or concern and to familiarize the client with his/her rights and responsibilities under the Act. While discussing the client's problem or concern, the outcome desired by the client is determined and an objective is formulated by the CAP Specialist and the client. During the intake interview and throughout the CAP process, it should be emphasized that the CAP client/CAP worker relationship does not in any way supplant the role and relationship between the client and the VR counselor.

The CAP Specialist will then analyze the client's rehabilitation needs with respect to the services authorized under the Act, as amended; to federal regulations; to state regulations, policies and procedures; and to local resources. The CAP Specialist and the client should jointly discuss strategies to resolve the concern as quickly and amicably as possible within the covered agency's structure. These strategies may include mediation/negotiation, administrative remedies and/or legal assistance. It is important to stress creative problem solving during this stage of the CAP process and in the formulation of the CAP objective.

As appropriate, the CAP Specialist may contact the rehabilitation professional working with the client to further discuss the client's concern. Whenever a review of the VR case file or any other agency's case file is necessary, a signed authorization for the release of information should always be obtained from the client. (The flow chart on page 34 illustrates some of the most common activities employed by CAPs from the initial contact with a client to case closure.)

Since many CAP clients are able to mediate and/or negotiate on their own behalf once they have a clear understanding of their rights and responsibilities in relation to specific rehabilitation services, some CAPs work with clients to assist them in becoming self-advocates and in promoting consumer empowerment. A variety of approaches are used to promote self-advocacy, including providing brochures or booklets on how to become an effective self-advocate and/or teaching clients (one-on-one or in groups) self-advocacy skills, negotiation skills, how to listen, how to formulate objectives and strategies, and how to be assertive. Many clients then are successful in securing the services they desire and can continue to represent their own interests as they work with the covered agency in the years to come. Activities aimed at empowering clients can potentially have even more far-reaching effects since many people who learn the techniques and skills to solve their own problems within the rehabilitation system will then employ these same skills in other aspects of their lives (e.g., housing, transportation, health care, employment, etc.). For those clients who are not capable of or comfortable with self-advocacy or with performing some or all of the interventions required to meet their objective, a CAP Specialist should be ready to intervene and advocate on behalf of the client.

When it is necessary for a CAP Specialist to intervene on behalf of a client, and when the client's problem or concern cannot be resolved satisfactorily through consultation or advice or through mediation and/or negotiation, the CAP should assist the client in pursuing appropriate administrative remedies. The representation should follow the steps in the VR or ILC appeals process as required by law. The primary purpose of the appeal process is to remedy dissatisfactions the client has with respect to an agency decision regarding the furnishing or denial of services. CAP, therefore, will assist a rehabilitation client in preparing his/her case by researching rehabilitation policy and presenting appropriate arguments. As appropriate, CAP may represent the client and/or advocate on his/her behalf in an administrative review, impartial hearing or court of law.

Closure of a CAP case takes place when the client's problem has been resolved or determined unresolvable, and/or when the assistance objective has been accomplished. At this time, case closure summaries should be submitted to the rehabilitation professionals involved in the case. The CAP client is made aware of the closure of his/her case through a telephone contact and/or a letter. All clients should be advised to contact the CAP again if any further assistance is needed, informed of any grievance procedures available to them, and notified of their right to appeal a CAP decision or case closure.

Upon closing a CAP case, pertinent information should be recorded in a closure statement in the case record. The case outcome should be summarized and notations regarding systemic problems should be recorded so that they can be communicated to the covered agency at an appropriate time.

Systems Advocacy Services

Systems advocacy services encompass all efforts to improve policies and/or procedures of agencies authorized under the Act which impact directly or indirectly on the quality of client services as well as policies, procedures and practices which are designed to improve or expand the service delivery system. Examples of systems advocacy services would include:

- advising state and other agencies of identified problem areas in the delivery of rehabilitation services, and suggesting methods/means of improving agency performance;

- providing recommendations to policy makers regarding ways to improve services under the Rehabilitation Act;

- encouraging the creation of support and community services to increase the likelihood of successful participation in vocational rehabilitation and independent living center services and the elimination of barriers to those services;

- reviewing and commenting on regulations, policies and procedures as they are proposed and published by RSA, state VR agencies, and other programs, projects and facilities funded under the Act; and

- recommending legislative and regulatory changes to RSA and to covered agencies regarding services under the Act.

Systems Advocacy Methods

CAP Specialists employ a variety of methods and strategies to improve the rehabilitation services their clients receive or to protect their clients' rights in relation to these services. For CAP Specialists, systems advocacy efforts involve the process of identifying problems in the delivery of rehabilitation services, and recommending necessary changes in the structure and/or functioning of that system to ensure applicants and clients of rehabilitation services access to the system. Schematically, the CAP systems advocacy process involves a minimum of four steps:

- identifying and defining the problem;
- identifying the systemic dysfunction that is its cause;
- developing a strategy to remove that dysfunction; and
- implementing that strategy.

Many CAPs use the journalistic approach to identifying systemic problems. By asking "Who? What? When? Where? and Why?", they are able to gain a clearer understanding of the problem. Once they have a clear understanding of the problem, they are often able to identify the "actual" cause of the problem, e.g., an inappropriate policy, improper implementation of a policy, or the lack of a policy. Once the cause of the problem has been identified, an appropriate strategy for resolving the problem can be developed and implemented.

CAP systems advocacy strategies may also include efforts to change the legislative or regulatory basis of rehabilitation services by providing comments on proposed regulations, by providing input into the reauthorization of the Act, by educating legislators, by attempting to modify the policies or procedures of the agency delivering the service through administrative hearings or negotiations, by changing the informal practices of agency staff through consultation or informal discussion, and/or by litigating cases. Systems advocacy sometimes involves mobilizing consumers, providers, or the general public in support of the change desired.

Identification of Systems Issues and Problems

In fulfilling their mandate to improve the delivery of rehabilitation services, CAPs identify and provide recommendations on a wide variety of systems problems. The types of

problems CAPs address may be classified into several categories, including but not limited to:

- failure to comply with the Act or the governing regulations;
- differences in the interpretation of the Act and governing regulations;
- problems related to policies (lack of, inappropriate, poor, too restrictive, too broad, inconsistent application or implementation, etc.);
- failure to abide by the State Plan and/or follow agency practices and/or procedures;
- problems in the delivery of services (gaps, lack of coordination, duplication, etc.); and
- resource problems (lack of/limited, misuse, restrictions, etc.).

Certain methods for identifying problems in the rehabilitation service delivery system are, in many ways, "built-in" to the daily operations of CAPs. Examples of such "built-in" mechanisms for identifying systemic problems are discussed below.

Identifying Client Trends

On a daily basis, CAPs are contacted by individuals with disabilities who are experiencing problems as they are seeking and/or receiving rehabilitation services funded under the Act. Often the problems these people are experiencing have wide spread similarities. Such common problem trends often serve as the first indicator of a systemic issue.

In evaluating possible commonalities which may provide evidence of a "potential" systemic problem, CAPs often seek to identify a prevailing pattern among problems according to:

1. *Client Geographic Location* - recurring problems in one area or rehabilitation office in the state;
2. *Disability Group* - recurring problems experienced by one specific group of persons with the same or a similar disability; or
3. *Requested Service* - recurring problems in the provision of a specific service, regardless of disability or geographic location.

Although determining such patterns or trends can be an important step in the identification of systemic problems in the rehabilitation service delivery system, CAPs are sometimes

able to identify a systemic problem based on a single problem reported by just one client. When this occurs, the CAP may be able to bring the problem to the attention of the VR agency before other clients are affected negatively by it.

Identifying Long-Term Trends

Many CAPs have found that accurate record keeping over a long period of time will frequently alert them to less apparent systemic problems. Computerized, statistical queries are valuable resources which are available through accurate record keeping. For example, one CAP examined client statistics over a three year period and found that clients with epilepsy were consistently experiencing problems in securing necessary job placement assistance from the VR agency. This problem did not become evident until cross-referenced questions were asked of the computerized client data base and the results indicated that this recurring problem was common for that particular group of clients. Using this information, the CAP sought additional methods to verify the problem and, eventually, brought it to the attention of the VR agency's training staff. As a result, the VR agency responded appropriately and was able to significantly diminish the occurrence of the problem.

Communication with Community Resources

CAP staff are frequently called upon by rehabilitation professionals (staff of group homes, rehabilitation hospitals, etc.) and members of disability organizations to answer general questions about the VR agency and its policies and procedures, and about the other programs, projects and facilities funded under the Act. Recording such requests can be used as another mechanism for accumulating additional information on whether a vaguely defined systemic problem is being experienced by others. Such activities can help CAP further define problems, increasing their knowledge of the numbers of persons who are experiencing specific problems, and can provide insight on the broader implications of systemic problems.

Rehabilitation counselors within the state VR agency represent another valuable source of information in determining the nature and scope of systemic problems. Additionally, experienced VR counselors are frequently very creative in arriving at solutions to such problems.

Monitoring Compliance with Federal and State Regulations

CAP staff must be knowledgeable about the Act and implementing federal and state regulations in order to effectively assist clients in understanding and securing services. Such knowledge provides CAP staff with another "built-in" mechanism for identifying systemic problems as they compare and analyze the effectiveness of service provision

within the state VR agency, with the agency's implementation of the Act and the governing regulations. A critical step in the identification of systemic issues frequently involves the study and comparison of the intent of the federal rehabilitation mandate and the federal and state regulations governing that mandate to the agency's compliance with the State Plan, and the agency's policies and procedures, especially as they are enacted by VR counselors at the local level. Armed with this knowledge, CAPs can be more effective in identifying systems issues and developing reasonable recommendations for addressing those issues.

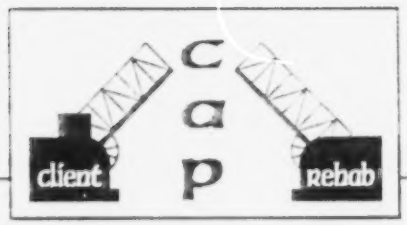
Communication with Rehabilitation Agency Administration

The Act and the governing regulations mandate that CAPs shall be afforded reasonable access to policy-making and administrative personnel in the state and local rehabilitation programs, projects and facilities [Sec. 112(g)(2) and 34 CFR 370.42]. State rehabilitation agencies are likewise required to seek the views of individuals active in VR in matters of general policy development and implementation [34 CFR 361.18]. As a result, many CAPs are active participants in policy review committees, VR's advisory councils, budget review teams, etc. Many CAPs also participate in public hearings on the State Plan and on state agency policy changes. Such participation is vital to the identification and resolution of systemic issues.

In addition, CAPs use regularly scheduled meetings with state VR agency administration to define and discuss identified systems issues. Since regularly scheduled meetings between CAP staff and rehabilitation agency decision-makers can promote a continuing dialogue for the discussion, many systemic issues can be resolved through such communication. However, when the administration of the VR agency refuses to act upon an identified problem, CAP staff should continue to investigate the issue and plan for a greater advocacy effort by modifying systems recommendations.

The identification of systems issues and the resulting systems advocacy efforts are often time-consuming and laborious activities. However, the resulting and far-reaching benefits to the total rehabilitation population make such activities a worthwhile and vital component of CAP's effectiveness.

CHAPTER IV



Program Results

This chapter provides national statistics relevant to CAP for FY 1985 through FY 1989. Statistical information is followed by some CAP case examples, a narrative discussion of legal developments resulting from CAP cases, examples of systemic changes facilitated by CAPs, and a discussion of legal developments resulting from CAP cases.

Summary of CAP Appropriations and Total Number of Clients Served

CAPs have been operating in all states and territories since the program was mandated in 1984. Using available data, the following chart represents annual increases in funding and in the number of clients served by CAPs nationwide from 1984 to 1990, with a slight decrease in the number of clients served being reflected in the 1988 and 1989 statistics.

Fiscal Year	*Funding*	*Total Clients Served*	*Routine Informational Inquiry*
1984	6,000,000	N/A	N/A
1985*	6,300,000	11,398	17,364
1986	6,412,000	13,531	25,523
1987	7,100,000	13,522	29,396
1988	7,500,000	12,683	34,721
1989	7,775,000	12,008	37,895
1990	7,901,000		

* RSA-IM-86-40, June 11, 1986

(Note: The FY 1983 appropriation for the discretionary CAP was $1,734,000. As indicated above, no statistics are available for the number of clients served and the number of routine informational inquiries received during FY 1984.)

Under current funding levels, CAPs, especially those operating on minimum allotments, continue to experience difficulties in meeting the needs of applicants and clients of rehabilitation services. This problem arises from a variety of factors, including the increasing demands being placed on VR agencies which are also operating with limited resources, the addition of new rehabilitation programs under the 1986 Amendments (e.g., supported employment), the expansion of other programs such as independent living, the expansion of CAPs' mandate to include the provision of information to any individuals with disabilities in the state, and the public's increasing awareness of the existence of CAPs.

The decrease in the total number of clients served in FY 1989 is probably due, to some extent, to many CAPs using the standardized definitions for "case" and "inquiry" that were

developed by NAPAS, using input from CAPs nationwide during the Fall of 1988. As discussed earlier, CAPs used a variety of criteria to distinguish between case and inquiry prior to the development of these definitions. The large increase in the number of routine informational inquiries in FY 1989 seems to support this theory.

National CAP Statistics

The following statistical information and annual comparisons are based on statistics gathered from the Annual CAP Reports (RSA 227) submitted for FY 1985 to FY 1989. Some information taken from the PMA evaluation study conducted in 1985 is also included.

In reference to the major disabling conditions represented among the individuals served by CAPs during FY 1985, the PMA study (1986) found that individuals with orthopedic impairments and with mental illness were the most frequent users of CAP services. The CAP Annual Reports for FY 1985 through FY 1989 (RSA 227) also indicated that individuals with orthopedic impairments were the most frequent users of CAP services. During FYs 1985 and 1987, the category of all other disabilities had the next highest percentage of total clients served, with 18% falling in this category in FY 1985, 22 % in 1986, and 14% in FY 1987. Some of the 8% reduction in this category between 1986 and 1987 can be attributed to changes in the Annual Reporting Form in FY 1987, when the list of major disabling conditions was expanded to include two additional disabilities, i.e., learning disabilities and other neurological disorders. Although traumatic brain injury (TBI) was also added to the listing in FY 1987, it was listed as a separate category on the CAP reporting form and was not included in the regular list of major disabling conditions. RSA's rationale for doing this was that TBI is a condition that can manifest itself in a variety of disabling conditions. Hence, it is assumed that clients with TBI are already being counted under one of the other major disabling conditions listed.

The following chart represents the national CAP statistics for "major disabling condition" for FY 1985 through FY 1989.

Major Disabling Condition	*Percentage of Total Clients Served*				
	1985	**1986**	**1987**	**1988**	**1989**
Blindness *(both eyes)*	5%	6%	6%	7%	8%
Other Visual Impairments	5%	4%	4%	4%	4%
Deafness	4%	4%	4%	4%	4%
Hard of Hearing	3%	3%	3%	2%	2%
Orthopedic Impairments	26%	24%	25%	25%	26%
Absence of Extremities	3%	2%	1%	2%	1%
Mental Illness	15%	15%	14%	15%	15%
Substance Abuse *(alcohol or other drugs)*	5%	4%	4%	5%	5%
Mental Retardation	8%	6%	4%	4%	5%
Learning Disabilities	N/A	N/A	3%	5%	5%
Other Neurological Disorders	N/A	N/A	7%	10%	8%
Respiratory Disorders	1%	1%	1%	1%	2%
Heart & Other Circulatory Conditions	3%	2%	2%	2%	2%
Digestive Disorders	1%	1%	1%	1%	1%
Speech Impairments	>1%	1%	1%	1%	1%
Genitourinary Conditions	>1%	0%	0%	1%	>1%
All Other Disabilities	18%	22%	14%	8%	8%
Disability Not Known	4%	5%	5%	3%	3%

(Note: A total of 236 people with TBI were served by CAPs nationwide in FY 1987, 426 in FY 1988, and 388 in FY 1989.)

Under "types of services provided", changes in the percentage of total clients served by CAP from 1985 to 1989 were relatively minor, as demonstrated in the following statistics.

	Percentage of Total				
Types of Services Provided	**1985**	**1986**	**1987**	**1988**	**1989**
Information & Referral	65.4%	50%	38%	34%	34%
* Advisory/Interpretational	N/A	N/A	26%	35.5%	35.5%
* Mediation/Administrative	42%	37%	N/A	N/A	N/A
* Mediation	N/A	N/A	28%	24%	25%
* Administration	N/A	N/A	5%	5%	4.2%
Legal	1.4%	2%	2%	1%	1%
Transportation	.4%	1%	1%	.5%	.7%
* Other	7%	10%	N/A	N/A	N/A

* Note: The variations in the types of services provided in 1986 and 1987 may be due, in part, to changes in the categories listed on the Annual CAP Report.

During the first year of the mandated CAPs, the PMA study (1986) found that the legal services being provided by CAPs nationwide were similar, and that legal services were provided far less than any other CAP service. According to the FY 1986 through 1989 CAP statistics, this trend has not changed with the exception of the very low usage reported for transportation services. However, the relevance of the statistics on transportation services is somewhat questionable since many CAPs do not provide transportation services except in emergencies. Most CAPs view transportation services as a responsibility of the VR agency. The fact that there was even a slight decrease in the provision of legal services among CAPs nationwide during FY 1988 (i.e., the percentage of legal services dropped from 2% in FYs 1986 and 1987 to 1% in FYs 1988 and 1989) is noteworthy.

The 1987 Annual CAP Report (RSA 227) required, for the first time, the identification of problem areas addressed for individual applicants and clients. Of the six areas listed, the majority of all problems identified in 1987, 1988 and 1989 fell under the category of "service related". The next largest category listed in 1987 was "unreported", with 23% percent of all problems being reported there. The number of problems listed under "unreported" in 1988 was reduced to less than 1% and this statistic was not included in FY 1989. Some of the increases in the remaining four categories may be the result of the large reduction in the number of problems being classified as "unreported". The following chart represents the national CAP statistics for FYs 1987, 1988 and 1989 in reference to "problem areas".

Problem Areas	1987	1988	1989
Client-Staff Conflict	11%	18%	18%
Service Related	29%	40%	39%
Related to Client's Eligibility/Application	10%	20%	21%
Other Problems	13%	14%	17%
Non-Rehabilitation Act Related	14%	7%	5%
Unreported	23%	>1%	N/A

One success of the CAPs is not reflected in the national statistics or in the Annual CAP Reports submitted to RSA. Based on the affirmative action requirement found in EDGAR, each CAP must develop and implement an affirmative action plan to employ and advance in employment qualified individuals with disabilities. This plan must provide for specific action steps, timetables, and complaint and enforcement procedures necessary to assure affirmative action. [34 CFR 370.3(b) and 369.43] CAPs' compliance with this requirement is clearly demonstrated in the hiring of numerous people with disabilities to work in the CAP network as Directors, Advocates and Specialists. One might assume that such hiring has had a positive affect on service outcomes as people with disabilities often find other people with disabilities acting as their advocates.

CAP Case Examples

In the context of service delivery by CAPs thus far, we have descriptions of clients, the nature and scope of services, and statistics of services that have been provided to date by CAPs. While comprehensive and factual, the discussion of CAPs services would not be complete without an examination of specific case scenarios in which service outcomes are described. This section, therefore, will be devoted to specific case examples in which CAPs' staff, through mediation, negotiation and representation, assisted individual clients in achieving specific outcomes or in obtaining specific services.

The following case narratives are examples of the types of problems that clients/applicants may experience at various stages in the rehabilitation process. The cases presented represent a cross-section of problems that are typically brought to CAPs. They reflect challenges to ineligibility determinations, client/ counselor conflicts, disagreements in developing IWRPs, disagreements concerning the provision of physical restoration training or placement services, challenges to case closure and requests for post-employment services. The actions taken as the result of CAP representation in the cases described below, however, are not necessarily representative of the outcomes achieved by all CAPs. An effort to select case examples from various states was made; nevertheless, the cases chosen are only a sampling of case experiences by CAPs nationwide.

While many of the cases cited ended in administrative appeal, it should not be concluded that most client requests necessitate this level of redress. Quite the contrary, statistical information reveals that the majority of complaints received by CAPs are resolved informally through negotiation or mediation.

Although the cases presented describe instances in which CAPs have represented individuals in administrative appeals, representation in this process is not an absolute entitlement or right available to every CAP client. Pursuant to RSA directive, CAPs are allowed the discretion to determine what services will be provided to a client/applicant and when it is appropriate to provide those services. Clarification from RSA regarding this issue resulted from an inquiry in which a CAP questioned whether or not representation at the hearing level had to be extended to individuals whose cases lacked merit. The Commissioner, in sanctioning the latitude for discretion, recognized the limited funding level and the pervasive target population CAP must serve. The option to exercise this discretion, however, was not intended to allow CAP to systematically deny the range of services available to clients/ applicants under the Act. Rather the directive allows CAP to exercise discretion in the handling of individual cases.

In exercising such discretion, some CAPs deny representation at the administrative review and/or impartial hearing when it is determined that an individual's case lacks merit. Some CAPs exercising this right are housed in P&As and legal centers. In consideration of this type of placement, CAPs work in conjunction with other programs and are bound by the code of ethics or bylaws established by the administering agency. This is not to say that only CAPs placed or housed externally exercise this discretion. Moreover, the extent to which

this occurs nationally is unknown. In instances in which representation is denied, technical assistance to prepare the individual to represent him/herself is provided and/or CAPs assist the individual in securing alternative representation.

Not all the examples presented resulted in positive outcomes for the client. Due to programmatic constraints, it is not always possible for the CAP worker to achieve the outcome sought by the client/applicant. Furthermore, even when a desired outcome is achieved, either through negotiation or adjudication with CAPs' assistance, the client/applicant may not be satisfied with the result. The value and effectiveness of CAPs are not measured solely by their ability to achieve positive outcomes for clients. Clarification of services available under the Act, protection of rights, and representation in the due process system, regardless of an issue's merit, are viable services that CAPs can provide as prescribed in the Act.

1. *Eligibility — Existence of Vocational Handicap Based on Underemployment*: Having been rendered ineligible for services, a former deaf client requested an administrative review to refute the agency's contention that she was not vocationally handicapped. At the time of reapplication to VR, Ms. H had been approved for leave of absence from her position as an account clerk for a governmental agency. She was planning to attend Gallaudet University to secure a bachelor's degree and was seeking agency financial assistance to complete the degree program. The agency denied her request arguing that she was successfully employed in an occupation that was commensurate with her abilities and which paid a suitable wage ($9.58 an hour). At the review, Ms.H argued that she was underemployed and working at an occupation that was far below her capabilities. Her job required completion of only one task, offered little challenge, and provided no opportunities for advancement in the system. She disputed the agency's contention that her occupation constituted entry level employment. The administrative review decision upheld the agency's determination of ineligibility. Ms. H disagreed with these findings and requested an impartial hearing. The impartial hearing decision overturned the agency's determination and ordered that the case be reopened, eligibility determined, and an IWRP developed consistent with the client's goal of completing an undergraduate degree.

2. *Eligibility — Determination of Vocational Handicap Based on the Existence of Functional Limitations*: Dissatisfied with the results of a recent administrative review, Mr.M chose to further appeal the VR agency's determination of ineligibility and challenge the agency's argument that his visual impairment (monocular vision) was not functionally limiting and, therefore, not a handicap to employment. At the hearing, Mr. M produced evidence substantiating employment rejection, and testimony documenting the progressiveness of his condition. Mr. M argued the need for vocational counseling, job training and placement. The impartial hearing decision reversed the agency's determination of ineligibility. The agency was ordered to open the client's case and vocational planning ensued.

3. *Eligibility Disagreement — Dispute concerning the Nature and Treatment of Identified Functional Limitations*: Mr. K requested an administrative review after having received a determination of ineligibility. The VR counselor based his decision on the lack of functional limitations associated with an alleged physical disability and the client's unwillingness to accept a documented psychiatric diagnosis and associated recommendations for treatment. Mr. K refuted the agency's findings and argued that his hiatal hernia condition was functionally limiting and did cause specific barriers to employment. Furthermore, although he had been hospitalized for 6 1/2 years at a regional psychiatric hospital, Mr. K denied ever having had psychological problems and refused to see a psychologist or psychiatrist for treatment. He sought agency assistance in establishing a small business and desired the agency to underwrite the cost of a correspondence course in small engine repair. Mr. K was represented by a CAP staff person at the administrative review, and the decision issued upheld the counselor's determination of ineligibility. The client appealed further with CAP representation, but the impartial hearing decision also upheld the counselor's determination. Although dissatisfied with the impartial hearing decision, Mr. K decided not to pursue legal remedies.

4. *Eligibility for Supported Employment Based on Availability of Resources*: Ms. M, a 21-year-old blind woman, appealed her VR counselor's determination of ineligibility. She contended that her counselor had erroneously determined her ineligible for supported employment because of the current lack of resources for ongoing support after her first 18 months of supported employment services. The decision rendered ruled that the lack of ongoing support services is not a viable reason for denying eligibility for supported employment. Her case was reopened and the counselor initiated reassessment of her vocational potential.

5. *Determination of Ineligibility Based on Severity of Disability*: Mr. T, a 20-year-old male with a multiplicity of disabilities including mental retardation, sought CAP's assistance in appealing a determination of ineligibility. The VR counselor determined that Mr. T was too severely disabled to be feasible for employment. With authority from his legal guardian, CAPs assisted Mr. T in appealing the ineligibility decision, arguing that he was feasible for employment. The administrative review reversed the VR counselor's decision and additional diagnostic evaluations were ordered. As a result of the evaluations, VR determined that Mr. T exhibited the necessary skills to be successful in supported employment. An IWRP was developed with an objective of supported employment and the necessary services were subsequently provided.

6. *Dispute Concerning IWRP Development — Disagreement Involving Vocational Goal Selection*: Ms. S appealed a case closure decision that occurred as a result of a disagreement concerning vocational choice. Her VR counselor felt she should pursue placement activity in the clerical field while she argued that this occupation

was not suitable and that she needed training to prepare her for employment. Ms. S sought agency sponsorship for completion of training in electronic technology. When agreement could not be reached concerning IWRP development, the counselor assumed that the client desired case closure. Ms. S refuted this allegation at the administrative review and requested that her case be reopened and assigned to another counselor. Since the client did not desire case closure and since a counselor/client conflict had arisen, the district manager ordered that the case be reopened and reassigned to another counselor. Follow-up with Ms. S revealed that the case had been reopened and an IWRP had been developed which outlined electronic technician as the vocational goal. The new counselor agreed to subsidize the cost of a six month correspondence program that had been selected by the client.

7. *Dispute Involving a Request for Financial Support to Provide Physical Restoration Services*: Mr. G appealed his VR counselor's decision not to retroactively authorize coverage of the hospitalization expenses he had incurred. Since the counselor was aware of Mr.G's medical condition prior to the hospitalization and had been advised by the client's doctor that immediate surgery was not needed, he was in the process of exploring the availability of comparable benefits and services when he learned that Mr. G had undergone surgery. The counselor refused to authorize VR funds to cover the almost $7,000 in expenses incurred, stating that VR policy prohibits authorizing services after the fact. Mr. G argued that the condition had worsened unexpectedly and surgery had to be performed on a Sunday; hence, there was no way he could notify the counselor ahead of time. The administrative review upheld the counselor's decision. However, at the direction of the administrative review officer, the counselor assisted the client in securing comparable benefits to cover this expense.

8. *Disagreement Concerning the Need for Physical Restoration Services*: Mr. W, a 45-year-old man with a mobility impairment resulting from a stroke five years ago, requested and was denied physical restoration services from the VR agency. The denial resulted from negative documentation placed in the client's case record immediately following Mr. W's initial hospitalization. Although Mr. W had indeed expressed considerable anger, depression and lack of motivation at that time, he claimed it was inappropriate for the new counselor to base his decision for denying services on this old information. Following CAPs mediation services, the new VR counselor and Mr. W began working towards the purchase of a new wheelchair and computer equipment to assist Mr. W's return to his previous job as a school teacher.

9. *Denial of Support for Graduate Level Training Based on Part Time Student Status*: Ms. L, a 27-year-old social work graduate student with multiple sclerosis was denied tuition assistance from VR. Ms. L's request was denied because she had "interrupted" her graduate training by going to school part time, thereby violating a VR policy stating that VR cannot provide tuition assistance to students who "interrupt"

their full-time graduate training. Ms. L had reduced her hours to part-time status in order to obtain employment so that she could support herself. Due to her deteriorating physical capacity, she could no longer handle the demands of full-time work and school, and her physician had advised her to decrease her workload. After being told that VR could not assist her, she contacted CAP who advised her of rights to appeal and assisted her in preparing the arguments and documentation necessary for a successful appeal. The client, representing herself, prevailed at the administrative review and was able to secure the VR assistance she needed to return to school full time.

10. *Denial of Supportive Services for College Training Program*: Mr. B was receiving college tuition from the Division of Blind Services (DBS) and was using an opticon purchased by DBS as an accommodation for his visual impairment. However, the DBS counselor and the client disagreed on his additional need for reader services in order to effectively complete his college program. The DBS counselor denied the client this service because he believed that the young man was asking for more services than were really necessary for his rehabilitation. CAP assisted Mr. B in appealing this decision to the impartial hearing level, where the client successfully secured an affirmative decision.

11. *Denial of Continued Transportation Assistance in Support of College Training*: Mr. N appealed the VR agency's decision to discontinue the provision of transportation services in support of his college training. These funds were not reauthorized for Fall, 1986 semester when it was learned that the necessary documentation to justify authorization had not been gathered, i.e., the counselor had not secured the completed financial need analysis from the school documenting the unmet need. Mr.N argued that this information had never before been requested and he did not think he should be penalized for the counselor's mistake. He was scheduled to complete his Associates Degree in December, 1986. The administrative review decision overturned the denial and retroactive authorization dating back to the beginning of Fall semester was ordered and later implemented.

12. *Case Closure From Status 20 (Ready for Employment) — Issue of Continuing Eligibility*: Mr. F, an eligible client with an IWRP in place, sought assistance from CAP in appealing a case closure decision. The VR counselor argued that he had closed the case because Mr. F's psychiatric condition had worsened, inhibiting his potential for employment. The closure decision was based on the psychiatrist's statement that Mr. F was not emotionally able to follow through with agreed upon vocational programming. The psychiatrist feared that continued involvement with the agency would further exacerbate the client's condition. He recommended that the case be reopened at a later date when the client's condition had stabilized. Mr. F disputed the case closure contending that the counselor had done little to assist him in achieving his goal of securing state or federal employment, and was deliberately trying to thwart his efforts at becoming successfully employed. He desired that the

case be reopened and transferred to another counselor. The client was represented by CAP at the administrative review. The decision that was rendered upheld the closure. The client appealed to the impartial hearing level and was represented by counsel. The decision rendered reversed the case closure and the agency was ordered to reopen Mr. F's case and transfer it to another counselor. When CAP followed-up with Mr. F it was discovered that the case had been reopened by another counselor and closed again, soon thereafter, because the client failed to follow through with vocational activity.

13. *Denial of Post Employment Services*: A former client appealed the agency's decision not to reopen his case to purchase a van and make necessary modifications. Mr. D contended that without transportation assistance, his job would be in jeopardy. Mr. D is quadriplegic and his job requires a good deal of travel outside the office. His work schedule did not permit the use of public transportation and his van was seven years old and in disrepair. The administrative review decision ordered that the case be reopened to obtain medical information to establish Mr. D's eligibility, and to develop an IWRP with interim objectives designed to maintain the client's employment. As a consequence of the review, the client sold his old van and purchased a new one. The agency agreed to provide van modifications totaling approximately $8,000.

Systems Change

Under the 1984 Amendments to the Rehabilitation Act, CAPs are given the responsibility of "identifying and pursuing solutions to system problems to improve the service delivery system to applicants and clients of benefits under the Act." Examples of the types of activities that CAPs undertake in fulfilling this mandate are presented in the section on "Definitions of Case Services" (See Chapter III).

The ability of individual CAPs to facilitate systemic change varies greatly from state to state. In some states, CAPs staff are viewed as VR professionals and their opinions are greatly valued. In other states, where the relationship between CAPs and VR is less positive, VR may give only minimal attention to recommendations made by CAPs.

The following summary provides specific examples where CAPs have been successful in facilitating systemic changes that have improved the delivery of rehabilitation services funded under the Act.

Input into VR Policy and Procedures

One CAP was successful in challenging a VR policy change whereby all deaf clients attending training programs or universities had to meet economic need criteria in order to

qualify for interpreter services financed through VR. When the CAPs identified VR's failure to follow appropriate state procedures concerning the public's right to respond to policy changes, VR conducted its first public hearing regarding a VR policy. As a result of the public hearing and the efforts of the CAPs, the policy on interpreter services was revoked. The income scale VR used to determine economic need, which was among the lowest in the country, was also increased to a much more reasonable level.

Supporting the broadest interpretation of policy, one CAP argued for the expansion of services provided under existing VR policy. After accepting the CAP's recommendation, VR began consulting with the CAP as VR policy was being generated. In one state, CAP's recommendations concerning changing the method by which VR paid for vendor services, from making the payment directly to the vendor to making the payment directly to the VR client, resulted in a change in the VR policy. In another state, CAPs were successful in getting VR to include CAPs as a formal part of VR's policy development and implementation process.

While participating in reviewing and revising VR's Policy and Procedures Manual, one CAP was successful in getting VR to reduce the time a case could be held open in the "diagnostic" (02) status without supervisorial justification, i.e., from six to four months. In another state, CAP was instrumental in getting a VR program directive issued whereby a case could not be closed until 30 days after the client was sent notification of the ineligibility decision.

One CAP was successful in requiring the VR agency to comply with state laws governing the promulgation of regulations and public participation in VR agency meetings.

Monitoring Policy Implementation

When the CAP in one state challenged VR concerning a client's time in a particular status, VR discovered that it was violating its own written policies by holding clients in status 10 (determination of eligibility) without mutual agreements. Another CAP identified a system-wide problem concerning delays in the purchase of equipment and modifications costing over $100 and requiring a bidding process. Acting on CAP's recommendation, VR assigned one person in the agency to handle all requests for items which had to go out for bid. This change produced substantial reductions in these delays.

Removing Moratoriums and Prohibitions

Several CAPs have been successful in getting VR to remove moratoriums and prohibitions. One VR agency dropped its moratorium on serving individuals suffering from strokes when CAPs suggested that this was a discriminatory practice. Several CAPs successfully challenged VR policies prohibiting the purchase of vehicles and the funding of graduate training.

Limitations/Restrictions on Funding and/or Services

Some CAPs have noted the existence of VR policies that limit or restrict certain funding and/or services. One CAP challenged the limitations placed on the funding of home modifications, adaptive technical aids, and van modifications. Another CAP was successful in getting VR to remove dollar limitations applicable to maintenance and tuition services. In yet another state, RSA upheld CAP's recommendation to change the maximum dollar amount that VR had placed on physical and mental restoration services. Another CAP was able to get VR to change its policy regarding out-of-state rates for personal care attendant services for Title I clients.

In one state, a single independent living center (ILC) was responsible for providing attendant care services to over half the state. The ILC had a policy whereby attendant care services were only available to people with orthopedic impairments. Noting that applicable regulations had no such limitation, CAP was able to clarify the inappropriateness of this policy and to expand attendant care services to people with other severe disabilities.

Notifying Clients of Availability of CAPs and of Their Right to Appeal

In reference to notifying clients about the availability of CAPs services, one CAP challenged VR's failure to provide appropriate information about the CAP on the IWRP, noting that the language present, which was in small print, was obscure. The CAP initiated a complete revision of the IWRP and the VR policy was revised to include the client's signature on the IWRP. In addition, the VR agency implemented a procedure where the client's signature on the IWRP was routinely checked at the time of case review. Another CAP was successful in getting VR to notify clients about the availability of CAPs services at all steps in the VR process.

When one CAP found that clients were not receiving notification of their right to appeal, it created a poster to be displayed in each VR office, and VR developed a brochure to be given to applicants at the time of intake and to clients at the signing of the IWRP. Taped and brailled copies of the brochure were made available to applicants/clients with visual impairments.

When it was discovered that one VR agency was notifying clients of certain kinds of case closures and not others, CAPs identified the need to inform all clients of case closures and of their right to an appeal. When RSA supported the CAP's recommendation, the VR agency adopted a new policy whereby all clients are notified of the closure of their cases and of their right to an appeal.

During a review of VR policies and procedures, one CAP was successful in adding a requirement that VR counselors make mandatory referrals to CAPs whenever applicants/clients expressed any dissatisfaction.

Serving Applicants/Clients of Other Programs, Projects and Facilities Funded Under the Act

As the program has matured, CAPs have become involved in assisting applicants/clients of other programs, projects and facilities funded under the Act. After identifying a need in rehabilitation facilities, one CAP assisted facility staff in creating an appropriate appeals process for clients. In reviewing the policies applicable to an independent living program, another CAP found the policies did not include due process for the clients of the program. The CAP intervened and due process procedures were incorporated into the program's body of policy. Another CAP was successful in getting both the general and blind VR agencies to adopt uniform administrative review procedures.

One CAP was successful in challenging the disciplinary policy at a state-owned rehabilitation training facility. This CAP was also successful in getting VR to actively refer all cases closed as "too severe for rehabilitation services" to independent living centers.

One CAP successfully challenged VR's supported employment eligibility criteria, maintaining that such criteria were in conflict with the federal policy regarding supported employment. As a result, VR removed the criteria. Another CAP was instrumental in starting a Consumer Network on Supported Employment to function as an information exchange network. At the recommendation of this CAP, VR designated a staff person to function as a supported employment program specialist.

Legal Developments

Recent years have seen an increase in the number of state and federal court cases brought against state VR agencies regarding the delivery of rehabilitation services. These cases can be traced to the Rehabilitation Act of 1973 which established for the first time a national policy supporting the independence of persons with disabilities and their integration into American society. The Act mandated an individualized approach to providing rehabilitation services and set forth specific rights for persons with disabilities. It also established correlative obligations on the part of the state VR agencies. The cases reported here clearly illustrate that the courts are prepared to enforce the Rehabilitation Act. They point to the need for state VR agencies to review their policies and practices to ensure that they are consistent with the requirements of the Act.

Eligibility

This series of cases deals with eligibility. The last case involves the exclusion of particular groups of individuals from rehabilitation and represents an emerging trend in rehabilitation cases.

1. *Cook v. Pennsylvania Bureau of Vocational Rehabilitation*, 405 A.2d 1000 (Pa. Commw. Ct. 1979)

Facts: The Bureau of Vocational Rehabilitation had provided plaintiff with assistance to the Bachelors Degree level, but denied him assistance with law school in accordance with an agency policy denying assistance beyond the B.A. level.

Holding:The state court held that the client was not disqualified pursuant to the policy but, rather, because the agency determined him to be employable without further educational services. The court emphasized the statutory and regulatory definitions of "employability" as employment "consistent with his capacities and abilities." The court found that the "ability to be employed" at any job is not equated with the definition of employability found in the federal regulations and rejected the agency's argument that the client's ability to get a job with his B.A. conclusively meant that further VR services would not reasonably be expected to improve client's employability. This issue, the court held, is a factual question.

The case was remanded for hearing because of inadequacies in the record (including the failure to include the IWRP as part of the hearing record). The court emphasized the central role of the IWRP and found that the standards relating to eligibility for rehabilitation services also apply to denial of services where denial is tantamount to a determination of ineligibility.

2. *Fogel v. Perales*, 522 N.Y.S.2d 283 (N.Y. App. Div. 1987)

Facts: the client listed practicing law as her vocational goal on her IWRP. The VR counselor indicated that both tuitions would be fully covered, and the agency paid the full cost of the client's undergraduate education. The client was accepted at law school, but was denied full tuition because the agency had adopted a tuition-funding policy after a reduction of federal funds. The client appealed and the appeals court found that this limitation was a reasonable solution to the inability to pay the full tuition of all eligible clients. The appeals court noted that the client failed to present any evidence that the funding limit would prevent her from attending law school. The court rejected the client's arguments that the funding cap violated the Rehabilitation Act; that the agency was barred from paying less given the counselor's assurance; and that the funding policy was not a properly issued rule or regulation.

Holding: The client is not entitled to law school tuition under the Rehabilitation Act.

3. *Turbedsky v. Pennsylvania Department of Labor*, 442 A.2d 849 (Pa. Commw. Ct. 1982)

Facts: Plaintiff was quadriplegic and respirator dependent. He lived in an institution.

There was no dispute about his eligibility for vocational rehabilitation services, but the agency denied the client's request for a full-time attendant which would enable him to live outside the institution.

Holding: The Act authorizes the provision of any services necessary to render the individual with a handicap employable, including "maintenance." "Maintenance" includes attendant care and other services necessary to derive the full benefit of vocational services. Full-time attendant care was necessary in order to derive the full benefit of the college education. The court held that the state agency had no discretion to deny services required under the Act.

4. *Martin v. Pennsylvania Department of Labor and Industry*, 461 A.2d 1351 (Pa. Commw. Ct. 1983)

Facts: The claimant, who had been labeled a "paranoid schizophrenic in remission," quit work to go to law school. The agency found the claimant ineligible for services.

Holding: The court found that the claimant was not severely handicapped and therefore not entitled to priority services. The court also found the claimant ineligible because there was no substantial handicap to employability.

5. *Wright v. Dept. of Education, Division of Blind Services*, 523 So.2d 681 (Fla. Dist. Ct. App. 1988)

Facts: An 18-year-old applicant had been under the supervision of state and county agencies. The department determined that he was not a good candidate for vocational rehabilitation services based on the hearing officer's findings that he was aggressive and had a history of hitting classmates.

Holding: The Florida Appeals Court held that because of his behavioral problems, the blind applicant was not eligible for vocational rehabilitation services.

The court rejected the applicant's appeal, noting that several people who testified at the hearing had described incidents of the applicant's "acting out" which included violent outbursts and an inability to get along with others. The applicant did not introduce any evidence that the testimony was inaccurate or that episodes had not, in fact, happened.

The court concluded that the hearing officer had not erred in relying on several reports from counselors, social workers and doctors, detailing the applicant's repeated and continuing behavior problems over a seven-year period. Further, the reports were admissible under the business records exception of the hearsay rule.

6. *Commissioner v. Haggard*, 327 S.E.2d 798, 173 Ga.App. 676 (1985)

Facts: The applicant was a recipient of Title II Social Security Disability Benefits based on a seizure disorder. The issue was whether the eligibility criteria, i.e., that there be a "substantial handicap to employment" applicable to eligibility determinations for regular program requirements could be imposed as an eligibility criterion by the agency for those qualifying for rehabilitation services as a Title II recipient.

Holding: The agency could impose additional eligibility criteria to make the eligibility criteria for both Title II and the regular programs the same under 42 U.S.C. 422(d) and 34 CFR 361.114(a).

7. *Fialkowski v. Wofford*, C.A. No. 87-3722 (E.D. Pa., Oct. 15, 1987)

Facts: This case was filed in the Eastern District of Pennsylvania on behalf of a class of individuals with severe disabilities who were represented by a high school graduate who was severely retarded and multiply handicapped. It includes claims that the defendant state VR agency categorically excluded persons with severe handicaps from vocational rehabilitation services. The lawsuit also contains allegations that applicants were rejected and services were refused to persons with severe mental retardation because the agency had been serving only persons with mild handicaps.

Holding: Case is still pending.

IWRP

This series of cases deals with the individualized written rehabilitation plan (IWRP). They point out that while the IWRP is not an enforceable contract, its requirements must be strictly followed both in terms of procedure and content.

1. *Lois Ferretti v. Pennsylvania Department of Public Welfare*, 496 A.2d 437 (Pa. Commw. Ct. 1985)

Facts: A rehabilitation client who was not severely disabled had her clothing and personal maintenance allowances (which were written into her IWRP) deleted pursuant to a funding shortfall.

Holding: The court found that the IWRP could be changed to reflect changed circumstances. It upheld agency action inasmuch as: (a) federal regulations require the state agency to establish written policies covering scope, nature, conditions, and procedures under which each agency service is provided (34 CFR Section 361.40(c)); and (b)there was not evidence that deletion of the allowance would prevent the client from reaching her vocational goal.

2. *Schornstein v. New Jersey Division of Vocational Rehabilitation*, 519F.2Supp. 773 (D.N.J. 1981)

Facts: Interpreter services provided to the client by the VR agency were terminated. The agency's position was that VR would not provide interpreter services where another agency (in this case, a local college) had an obligation to do so under Section 504 of the Act.

Holding: The blanket policy denying VR-sponsored interpreter services to every deaf college student which was incorporated into the IWRP violated the Act. A VR client has the right to individualized services. The policy violated the Rehabilitation Act's mandate to provide services on an individualized basis when the policy was invoked without considering whether interpreter services were in fact available. "Only if a 'similar benefit' program provides the necessary services for a particular client is the state VR agency relieved of its statutory responsibilities." The court also held that, once a person with a severe handicap was accepted as a client, the agency's discretion narrows considerably. VR is "required to provide the client with at least those services enumerated in the Act which are necessary to assist the person with a handicap to achieve his or her vocational goal." Interpreter services are included among mandatory services in the Act.

Termination of Services

These cases involve the termination of rehabilitation services.

1. See *Schornstein* above.

2. *Jones v. Illinois Department of Rehabilitation Services*, 504 F.Supp. 1244 (N.D. Ill. 1981)

Facts: Basically involves the same facts as Schornstein.

Holding: The Court held that any private right of action cannot be implied under Title I of the Rehabilitation Act of 1973, as amended. The Illinois Department of Rehabilitation Services has the primary responsibility for providing interpreter services for individuals with hearing impairments who are eligible for VR services.

3. *Scott v. Parham*, 422 F.Supp. 111 (N.D.Ga 1976)

Facts: Georgia had a rule that only clients who were receiving rehabilitation services away from home or their home community were entitled to maintenance support.

Holding: Although the state had considerable discretion in how it ran its program, the rule outlined above was not rationally related to the Act's paramount goal of

providing rehabilitation services "which are tailored to each individual's need," and was, therefore, invalid. The court indicated that the state could establish guidelines to aid in the individualized exercise of discretion.

4. *Beason v. Arizona Department of Economic Security*, 121 Ariz. 499, 591 P.2d 987 (Ariz. Ct. App. 1979)

Facts: Appealing a termination of VR services, the client argued that the agency's determination was "arbitrary, capricious or an abuse of discretion." This is a common standard of administrative review.

Holding: The court held that the agency was required to consult with the recipient of services before terminating services; but failure to do so did not invalidate termination because the claimant was entitled to a post-termination hearing. The court found that there had been no retaliation in the termination of services. It upheld the termination under the prior federal "beyond a reasonable doubt" standard where a strong history of noncooperation and absenteeism on the part of the client was present.

Miscellaneous

1. *Smith v. Kirk*, 821 F.2d 980 (4th Cir. 1987)

Facts: The case attempted to establish a right under 42 U.S.C. 422 (concerning rehabilitation rights of Title II Social Security Disability beneficiaries) to rehabilitation services without regard for financial need.

Holding: The court held that Section 422, which is intended to provide states with financial incentives to rehabilitate Title II recipients, created no enforceable rights. According to the decision, the regulation which provides that VR services shall be available without regard for financial need, did not create an enforceable right under federal civil right laws where the right was not implicit in Section 422.

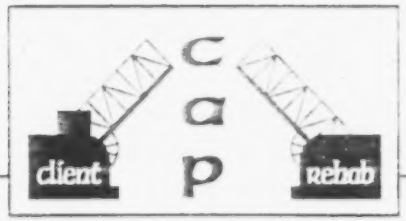
2. *Swan v. Stoneman*, 635 F.2d 97 (2d Cir. 1980)

Facts: The case involved an attack on the state VR agency's failure to provide hearings when terminating services provided in an extended evaluation.

Holding: The court did not reach the merits. However, the court did not appear to distinguish between termination from an extended evaluation and termination of eligibility in terms of due process rights held by clients.

Note: Some of the summaries outlined above were obtained from the Mental and Physical Disability Law Reporter and the Advocate's Guide to Vocational Rehabilitation, Calif. Protection and Advocacy, Inc.

CHAPTER V



Current Practice Issues

This chapter reviews current CAP issues. The first three sections briefly describe past efforts at monitoring and evaluating CAP followed by a set of suggested standards for use in future evaluations. The next section provides a review of the Client Appeal Process and includes a discussion of who is qualified to serve as an impartial hearing officer (IHO). The chapter concludes with a discussion CAP funding levels and the need to expand the collection and use of CAP data.

Monitoring CAPs

When CAPs became a formula grant program under the 1984 Amendments to the Rehabilitation Act, the responsibility to monitor and evaluate individual CAPs was delegated to the RSA Regional Offices. The Regional Offices use two approaches to monitor CAPs, i.e., on-site monitoring and monitoring through reports. Each Regional Office submits an annual work plan to the RSA Central Office which includes an outline of the major activities planned for the year and an annual travel budget. Since RSA has operated under budgetary restrictions, especially in the area of travel, since 1984, the Regional Offices have been limited in conducting on-site evaluations of CAPs. As a result, reviews of individual CAPs have been scheduled only when requested or when problems or concerns were identified in a particular CAP.

Since on-site monitoring of CAPs is the responsibility of the RSA Regional Offices and since RSA Central Office has given little guidance regarding the process to use in reviewing a CAP, individual reviews have often been based on the interests and concerns of the Regional Office or the RSA staff person conducting the review. The lack of formal monitoring procedures and standardized monitoring procedures has led to reviews that reflected the relationship among the CAP, the RSA Regional Office and the state VR agency. The reports resulting from such unstructured reviews have varied greatly and the recommendations for changes and improvements in individual CAPs have ranged from reasonable suggestions to threats of redesignation.

In FY 1988, RSA established an agency-wide objective for the on-going monitoring of all formula and discretionary grant programs funded under the Act. To this end, RSA recommended that Regional Offices conduct on-site evaluations of one third of the VR programs in their Region each year. It was further recommended that CAP be scheduled for a review at the same time as the VR evaluation in order to conserve funds and some staff time.

The Development of Evaluation Standards

During FY 1987, RSA recognized the need to create a Work Group on CAPs to deal with a variety of issues. Since there was no formal monitoring procedure for CAPs by RSA, the Work Group was given the responsibility of developing a standardized instrument to be used by RSA Regional Offices to monitor CAPs. The instrument, which was to consist of

several modules, was to be based on the Act and the federal regulations and requirements for the administration of CAPs. The instrument was also to assess a CAP's performance. The use of standards in the Regional Offices' evaluations of CAPs was identified as an important part of RSA's FY 1988 monitoring objective.

In 1985, Professional Management Associates (PMA) was awarded a contract to conduct an Evaluation Study of CAPs, as required by the 1984 Amendments to the Rehabilitation Act. In conducting this study, PMA created a set of standards to evaluate CAPs. In September of 1988, the RSA Work Group on CAPs sent the PMA standards to all CAPs for review and comment, indicating their belief that several of these standards were applicable to their overall management. The National Association of Protection and Advocacy Systems (NAPAS) organized the input from CAPs nationwide and developed a set of standards. NAPAS has submitted these standards to the RSA work group and recommended them for use by RSA Regional Offices in evaluating CAPs.

Suggested Standards for Evaluating CAPs

These standards reflect both compliance and good practice suggestions.

Standard 1: Program Planning. CAPs shall establish and implement annual program goals and objectives consistent with Section 112 of the Rehabilitation Act, as amended. Program activities shall have a direct relationship to these program goals and objectives.

1.1 CAPs shall establish and maintain a planning process to ensure the development and implementation of annual goals and objectives to ensure the individual rights of persons seeking or receiving services funded under the Act.

1.2 The CAP planning process shall ensure the establishment of goals and objectives to ensure the availability of a full continuum of assistance services.

1.3 The CAP planning process shall ensure the establishment of goals and objectives to ensure effective and responsive outreach efforts.

1.4 The CAP planning process shall ensure the establishment of goals and objectives to ensure effective and responsive program management.

1.5 The CAP planning process shall ensure the establishment of goals and objectives to ensure effective and appropriate program staff development.

1.6 The CAP planning process shall ensure the establishment of goals and objectives designed to promote a responsive vocational rehabilitation service delivery system.

Standard 2: CAPs Service Functions. Each CAP shall provide a full continuum of assistance services as specified in the Rehabilitation Act of 1973, as amended, and the applicable federal regulations. The mission of CAPs is to assist persons seeking and receiving rehabilitation services to expeditiously resolve problems and concerns related to service and benefits available under the Act. In addition, services shall be directed at protecting the rights of such persons under the Act. Services shall include, but not necessarily be limited to the following: (1) Information and Referral, (2) Advisory/Interpretational, (3) Mediation/Negotiation Services, (4) Administrative, and (5) Legal.

2.1 *Full Continuum of CAPs Services*—CAPs shall utilize all available and appropriate remedies to protect the rights of individuals seeking or receiving services funded under the Rehabilitation Act.

2.2 *Provision of Information*—CAPs shall provide information to any individual with a disability in the state to enhance their understanding of the services, and service-related rights and responsibilities, provided under the Rehabilitation Act of 1973, as amended.

2.3 *Use of Lower Level Resolutions First*—CAPs shall pursue the resolution of conflicts/problems between rehabilitation applicants/clients and programs, projects and facilities funded under the Act at the lowest decision-making level possible.

2.4 *Mediation/Negotiation*—CAPs shall mediate and/or negotiate on behalf of individuals seeking or receiving services funded under the Act if such intervention is necessary to resolve conflicts/problems or to protect individual rights in relation to programs, projects and facilities funded under the Act.

2.5 *Administrative and Legal Remedies*—If all informal approaches have been exhausted, and if such action is necessary to resolve conflicts/problems or to ensure the rights of individuals seeking or receiving services funded under the Act, CAPs shall pursue administrative and/or legal remedies when deemed appropriate based on professional judgement.

2.6 *Self-Advocacy*—CAPs shall promote the philosophy of self-advocacy among people with disabilities. As appropriate, CAPs shall provide individuals the assistance they need to advocate for themselves in securing services funded under the Act.

Standard 3: CAP Outreach. CAPs shall inform and advise persons seeking and receiving rehabilitation services funded under the Act of the availability of services.

3.1 *Outreach Function Objectives*—CAPs shall establish outreach strategies to identify potential applicants and clients of programs, projects and facilities funded under the Act, and to inform such persons of the availability of services.

3.2 *Eligibility for Rehabilitation Services*—CAP outreach efforts shall foster the understanding that rehabilitation programs funded under the Act are eligibility programs.

3.3 *Accessibility of Outreach*—CAPs shall ensure that outreach efforts are accessible to and appropriate for all persons with disabilities.

3.4 *Recommendations on Outreach Activities*—CAPs shall provide recommendations to programs, projects and facilities funded under the Act, concerning effective outreach strategies to inform their applicants/clients about the availability of services.

Standard 4: Management Practices. CAP management practices shall be consistent with reporting of activities, as required by Section 112(g)(4) of the Act.

4.1 *Management Information*—CAPs shall obtain and document all information required consistent with Section 112(g)(4) of the Act, as amended, which supports the Commissioner's reporting requirements under Section 112(h).

4.2 *Reporting Requirements*—CAPs shall accurately and thoroughly document all program activities, including a summary of the work done and the uniform statistical tabulation of all cases handled by the program. Information on VR service delivery system impact, program outreach efforts, and staff development efforts should also be included when appropriate.

4.3 *Cost Accountability*—CAPs shall be able to document and justify expenditure of funds, pursuant to Section 112(c)(3) of the Act. The financial systems used shall conform with generally accepted accounting principles consistently applied. Fiscal policies and practices shall conform with applicable federal standards.

4.4 *Management Decision Support*—CAP information systems shall support case tracking and management, and shall be capable of supporting management decisions and policy recommendations to service delivery agencies consistent with the intent of Section 112(g)(2) of the Act.

Standard 5: Program Staff Development. CAP staff development efforts shall ensure that program staff have the skills and knowledge necessary to conduct all program activities.

5.1 *The Rehabilitation Act*—CAPs shall ensure that program staff develop and maintain a thorough understanding of the Rehabilitation Act of 1973, as amended, and substantive knowledge of the programs, projects and facilities funded under the Act.

5.2 *Service Delivery Systems*—CAP staff shall have full procedural knowledge of CAPs and substantive knowledge of the state's vocational rehabilitation service delivery system.

5.3 *CAP Staff Training*—CAP staff shall be trained in the necessary skills and techniques to conduct CAPs activities. Appropriate staff shall develop and maintain skills in mediation/negotiation and representation.

Standard 6: Program Impact on Rehabilitation Service Delivery. CAPs shall contribute to enhancing the effectiveness and impact of rehabilitation services funded under the Act.

6.1 *Responsive and Responsible Rehabilitation Services*—CAPs shall promote the responsiveness of rehabilitation services funded under the Act as well as the responsible administration and delivery of these services.

6.2 *Policy and Administration*—CAPs shall ensure reasonable access to policy-making and administrative personnel in state and local rehabilitation programs, projects and facilities funded under the Act.

6.3 *Identifying Problem Areas*—CAPs shall develop, implement and maintain a mechanism to identify problem areas in the delivery of rehabilitation services funded under the Act.

6.4 *Resolution of Problems*—CAPs shall promote, and when necessary, pursue appropriate and effective resolutions to problems in the administration and delivery of services funded under the Act. If such problems are not appropriately and effectively addressed by the state's vocational rehabilitation agency, CAPs shall pursue appropriate resolutions with the Rehabilitation Services Administration.

6.5 *Consumer Input into Policies and Procedures*—CAPs shall promote an integral role for people with disabilities in the development of policies and procedures for programs, projects and facilities funded under the Act.

6.6 *Effective Working Relationships*—CAPs shall promote effective working relationships with all programs, projects and facilities funded under the Act.

Appeals Process

This section outlines the client appeal process set forth in the Rehabilitation Act of 1973, as amended, and the governing federal regulations. It also reviews the definition of an

impartial hearing officer contained in the federal regulations and discusses two court cases which impact upon this definition.

Section 102(d) of the Rehabilitation Act of 1973, as amended, and 34 C.F.R. 361.48 set forth the requirements for the client appeal process. Although procedures vary from state-to-state, they must be consistent with the federal provisions. Moreover, a state VR agency cannot arbitrarily establish limitations on appeal issues as the regulations do not limit the types of concerns which may be appealed. For example, a client or applicant can utilize the appeal process in an effort to change counselors. (RSA-PAC-88-03) Under section 102(d) of the Act, state VR agencies must establish procedures for the review of determinations made by the rehabilitation counselor or coordinator, upon the request of an individual with handicaps (or, in appropriate cases, such individual's parents or guardian). These review procedures must provide an opportunity to the individual for the submission of additional evidence and information to an impartial hearing officer who must make a decision based on the provisions of the State Plan approved under Section 101(a) of the Act. Within 20 days of the mailing of the decision to the individual, the state VR Director must notify the individual of the intent to review the impartial hearing officer's decision in whole or in part. If the Director decides to review the decision, the individual must be provided an opportunity for the submission of additional evidence and information relevant to a final decision. A final decision shall be made in writing by the Director and must include a full report of the findings and the grounds for the decision. When a final decision is made, a copy of the decision must be provided to the individual. Except where a fair hearing board is authorized under state law to review determination under this Act, the Director may not delegate responsibility to make the final decision to any other officer or employee of the designated state unit.

The federal regulations promulgated to supplement the provisions of the Act set forth above are found in 34 C.F.R. 361.48. These regulations became final on June 16, 1988. They provide that all clients and client applicants must be informed of the review procedures, including the names and addresses of individuals with whom appeals may be filed. They also provide that state VR agencies may continue to use an informal administrative review process if it is likely to result in a timely resolution of disagreements in particular instances. This process may not be used, however, as a means to delay a more formal hearing before an impartial hearing officer unless the parties jointly agree to a delay. With regard to the formal appeal procedures required under the Act, the Director of the state VR agency must assure that they provide the timely review of the client or client applicant's concern. At a minimum, the formal appeal procedures must provide that:

1. A hearing by an impartial hearing officer is held within 45 days of a request by an applicant or client.

2. The applicant or client is provided an opportunity to present additional evidence, information and witnesses to the impartial hearing officer, to be represented by counsel or other appropriate advocate, and to examine all witnesses and other relevant sources of information and evidence.

3. The impartial hearing officer makes a decision based upon the provisions of the approved State Plan and the Act and submits a report to individual and VR Director within 30 days of the completion of the hearing.

4. If the VR Director decides to review the decision of the impartial hearing officer, the Director shall notify in writing the applicant or client of that intent within 20 days of the mailing of the impartial hearing officer's decision.
5. If the Director fails to provide the notice required above, the impartial hearing officer's decision becomes a final decision.

6. The decision of the Director to review any impartial hearing officer's decision must be based on standards of review contained in written state unit policy.

7. If the Director decides to review the decision of the impartial hearing officer, the applicant or client is provided an opportunity for the submission of additional evidence and information relevant to the final decision.

8. Within 30 days of providing notice of intent to review the impartial hearing officer's decision, the Director makes a final decision and provides a full report in writing of the decision, and of the findings and grounds for the decision to tha applicant or client.

9. The Director cannot delegate responsibility to make the final decision to any other officer or employee of the state VR agency.

10. Except for the time limitation established in paragraph 4 above, each state's review procedures may provide for reasonable time extensions for good cause shown at the request of a party or at the request of both parties.

Impartial Hearing Officer

While the requirements of the appeal process are fairly straightforward, there is a great deal of confusion regarding what constitutes an impartial hearing officer. The regulations define an impartial hearing officer in Section 361.1(c)(2) as an individual:

(i) who is not an employee of a public agency that is involved in any decision regarding the furnishing or denial of rehabilitation services to a vocational rehabilitation applicant or client. An individual is not an employee of a public agency solely because the individual is paid by that agency to serve as a hearing officer

(ii) who has not been involved in previous decisions regarding the vocational rehabilitation applicant or client

(iii) who has background and experience in, and knowledge of, the delivery of vocational rehabilitation services

(iv) who has no personal or financial interest that would be in conflict with the individual's objectivity

While these regulations have not been subject to judicial scrutiny, the courts have interpreted similar provisions in the Education for All Handicapped Children Act (EHA) of 1975. In Muth v. Central Bucks School District, 839 F.2d 113 (3d Cir. 1988), the Third Circuit Court of Appeals held that the Secretary of Education was not an employee of the state educational agency and could not conduct a review under section 1415(c) of the EHA. This section requires that the review of a due process hearing held to challenge an Individualized Education Plan (IEP) for a handicapped child be conducted by an officer who is impartial. The court reasoned that Congress had intended in EHA to provide parents with decision-makers who are not subject to the kind of pressures that employees of an educational agency would necessarily feel. Because the Secretary directly exercises both fiscal and regulatory control over school districts, the court found that s/he must be considered equivalent to an employee of the state educational agency. Applying this reasoning to the first requirement set forth above, the term employee would extend to anyone exercising control over the agency and would not be limited to those only having direct involvement in the client's decision. This might very well include, for example, legal counsel to the VR agency or individuals in other agencies or departments overseeing the VR agency. This case was reversed by the Supreme Court on 11th Amendment grounds and it did not reach the issue discussed above.

In Mayson v. Teague, 749 F.2d 652 (11th Cir. 1984), the Superintendent of the Board of Education was selecting impartial hearing officers from the local university personnel and local supervisors and administrators of special education. The plaintiff claimed that common interests of local supervisors and administrators clouded their objectivity and that the university personnel, who had taken an active part in formulating state policy on special education, would find it difficult to reverse or modify a decision of a hearing or review officer. The court affirmed and found that officers and employees of local school boards or employees of agencies involved in the education and care of children did not meet the impartiality requirement in EHA. The court reasoned that they may have a professional interest which would interfere with their objectivity as hearing officers. Moreover, the court found that university professors who had taken an active part in formulating state policy could be sufficiently personally or professionally invested in the policy to find it difficult to reverse or modify the policy as a hearing officer.

This case is especially helpful when considering the fourth requirement set forth above. The case law generally requires a showing of actual bias or partiality before it will remove a hearing officer. Simply because an individual was at one time an employee of VR, does not render him/her biased or partial.

CAPs Funding Level and Resources

Under current funding levels, CAPs, especially those of minimum allotments, continue to experience difficulties in meeting the needs of clients and applicants of rehabilitation services. This problem arises from the addition of new rehabilitation programs in the 1986 Amendments, such as supported employment, and the expansion of other programs like independent living. In addition, discretionary grant funds should be made available to explore some of the issues raised in Chapter VI of this study.

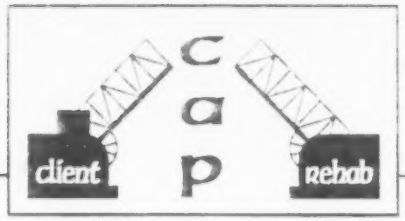
Expanded Use of System Advocacy

The discussion of system advocacy in Chapter III demonstrated that CAPs collect a considerable amount of data about the functioning of state VR agencies and the other programs that serve people with disabilities. They do so through their efforts to assist individual clients as well as when engaged in systems advocacy.

That information could provide an informative picture of the strengths and weaknesses of the specific programs in each state. If examined as a whole, such information could provide valuable insights about the successes and problems of the federal/state VR program nationally. Currently, no use is made of this potentially valuable information. No one collects it systematically and it is not analyzed.

The systematic collection and analysis of these data could be used in three powerful ways: to assist RSA in monitoring individual state VR programs; to assist RSA and Congress in evaluating the impact of the programs, projects, and facilities funded under the Act as a whole on people with disabilities across the country; and to provide policy makers such as Congress and the National Council on the Handicapped with an additional source of general information about services to people with disabilities.

CHAPTER VI



Utilization of the Document

Objectives

1. To present guidelines for the development of training seminars for rehabilitation personnel and others interested in enhancing the working relationship between VR agencies and CAPs.

2. To address administrative issues and concerns of both CAPs and VR programs through a model training module emphasizing CAPs as an integral component of VR programs, program descriptions, and the development of strategies to enhance communication between CAPs and VR.

3. To present information relevant to models of CAPs, regulations, policy and legislation, service delivery systems, and the unique contributions offered by CAPs to assist VR staff to make maximum use of the resources of CAPs to reach mutual goals.

4. To identify resources that can be used by staff development personnel and other rehabilitation trainers to increase and enhance communication and cooperation between CAPs and VR.

Summary

Fifteen years ago, with passage of the Rehabilitation Act of 1973, CAPs were conceived as a means to inform clients and client/ applicants of rehabilitation services, of available benefits under the Act, and upon request of the individual, to assist in their relationships with programs, projects and facilities providing services under the Act. Designed as an advocacy program for clients, it was not the intent of Senators and Representatives voting on the Act to create adversary roles between CAPs and VR programs. Unfortunately, that has occurred in some states.

On the other hand, other states have enjoyed a very good and close working relationship. In those states, CAP personnel are viewed as contributing members of the rehabilitation team, and clients with severe handicaps are better served, more effectively and efficiently. This was the real intent of Congress.

The purpose of this document, developed by the very people who served "in the trenches" for the past fifteen years, is to give staff of both VR and CAPs a vehicle to improve working relationships through a discussion of the history, philosophy, and goals of CAPs. The persons who contributed to this effort have worked in VR or in CAPs, and are individuals who believe that a genuine close working relationship can be enhanced and prosper, if good three-way communication between client, CAPs and VR counselor is established.

It is evident from this document that a few important issues remain. It was not the intent of this document to provide answers to all issues, problems and concerns. Unresolved issues

have been identified and other groups will have the responsibility to resolve them in the future. On the other hand, what is known, and what has been resolved is covered, and the following training module is provided to assist directors of training in VR agencies to implement a brief, intensive two-day overview of CAPs, their missions and goals, as well as to provide a means to enhance close working relationships between client, CAPs and VR.

Training Module

This document has presented an overview of the history of CAPs, its origins which have been modified over the years as improvements were made by Congress, regulations and policy, CAPs delivery systems, and examples of interventions by CAPs. Participants in the two-day seminar should already have copies of the document prior to the training; and, therefore, the need to spend the first day on the identical material might be questionable. Although it may not be necessary to spend a full day, at least a few of the participants will not have found time to read the document prior to the seminar and will need some review. Furthermore, since no two states are identical in their CAPs or VR programs, the first day provides time for these differences to be discussed specific to the state in which the seminar is held. Trainers covering the sessions have been selected from CAP, the VR Client Services unit, and the VR staff development office of the VR program. Their role is to provide an overview of the CAP/VR program as it exists in their states, including history, philosophy, placement of the CAPs, policies, case services and uniqueness of their relationships.

The second day of the session is by far the most important, for it is at this time that relationship building is to occur. If a relationship already exists, it could be a very healthy, communicative one; but, obviously, where the relationship is minimal, not yet established, or perhaps even somewhat hostile, the trainers will have their work cut out for them. In this instance a two-day session may not work at all, and another approach may be necessary, with the leadership of CAPs and VR meeting initially to define the issues that strain the relationship and developing strategies to deal with them.

Where the relationship is better than minimal, but still in need of improvement, the trainer may select a number of strategies to improve communication, including structured activities designed to develop goal consensus, role clarification, and common values. These types of small group activities can be used to build on existing interactions and improve communications while focusing on future working relationships.

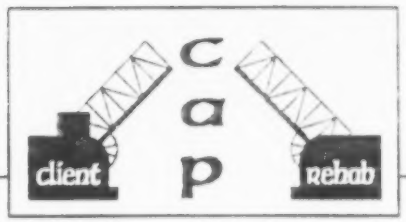
Where good working relationships exist, informally structured small groups can engage in relationship building and relevant joint program planning activities.

Where CAP/VR relationships have not yet been established, or have not developed positively, structured group decision-making and formal groups planning activities can bring the CAP/VR groups together in a joint planning task. Techniques, such as the Nominal

Group Process, maintain open exchange of ideas while retaining equal status of group members. The positive experiences of joint planning and decision-making establish a foundation for future relationship building activities.

CLIENT ASSISTANCE PROGRAM MODULE

CONTENT	OUTCOME	MATERIALS	TRAINERS	EVALUATION
Introduction Welcome	Participants are given the goals of the seminar & are told why they were asked to attend	Registration forms, IRI document, lecture	Director of Training, District Training Coordinator	
Overview of Client Assistance Programs	Participants will be given a historical & legislative overivew of CAP	IRI document, slide/tape, handouts, lecture, discussion	CAPs Director	Pre/post test
CAP Descriptions	Participants will be given an overview of CAP policy regulations, relationships with other programs and unique contributions	IRI document handouts, lecture, discussion	CAPs Director, Director of Training	Pre/post test
CAP Service Delivery Systems	Participants will review CAPs systems including outreach, case services, & system advocacy	IRI document, slide/tape, handouts, lecture, discussion	CAPs Director, Director of Training	Pre/post test
CAPs as an Integral Component of Vocational Rehabilitation	Participants will be given an overview of the concept of CAPs & VR as Advocates & will be provided with examples of good relationships	IRI document videotapes, handouts, lecture, discussion	Director of Client Services, CAPs Director	Pre/post test
Strategies to Enhance Communication	Participants will develop a better understanding of the concept of a "shared primary goal" between VR & CAPs, the concept of least intervention, the role & function of VR/CAPs/client relationships & communication strategies	IRI document, small group discussion, handouts	Director of Training, CAPs Director, VR upper/middle management	Pre/post test



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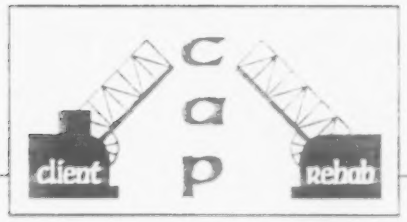

Appendices

Appendix A
Issues for Future Consideration

Appendix B
IRI Prime Study Group Members

Appendix C
Total Study Group

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Appendix A

Issues for Future Consideration

The IRI Prime Study Group on CAP recognizes that CAP is a dynamic program whose continued development and growth requires consideration of issues which bear upon its effectiveness in the future. These issues are vitally important to the continued success of CAP agencies as they fulfill their mandate. The following represent some of the issues identified by the Study Group for future consideration.

1. Should CAP agencies have the authority to pursue class action litigation?

2. Should CAP agencies have the authority to pursue remedies under Section 504 of the Rehabilitation Act of 1973, as amended, in those cases where a client or client applicant is being discriminated against in a way which impacts upon his/her opportunity for employment.

3. Should the "good cause" requirement for redesignating the agency to conduct the CAP be further defined and clarified?

4. Should the "burden of proof" requirement previously included in the federal regulations governing the appeals process be reinstated?

5. Should the state VR agency be required to notify clients and client applicants of the availability of CAP at points in the rehabilitation process other than at the time of application and the development of the IWRP; and should the requirements for such notification be expanded to other programs, projects and facilities funded under the Act?

6. Should CAP agencies be required to be independent of VR agencies and/or providers of generic services?

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